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ABSTRACT

This teacher's guide introduces secondary students to the study of constitutional government in the United States. It is designed to provide students with an understanding of how the Constitution came into existence, why it took the form it did, and how it has functioned for the past 200 years. Through the 31 lessons of the text, organized into six units, students examine the philosophical and historical forces that influenced the Founding Fathers; the writing, adoption and ratification of the Constitution; and a number of constitutional issues that have been important in the years since the Founding including judicial review, federalism, due process, equal protection, and the freedoms of speech and religion. The text is based on a conceptually oriented approach that blends expository and inquiry methods, both of which call for active participation by students throughout. The approach stresses the development of analytic and evaluative skills, which will enable students to apply basic substantive knowledge to a wide variety of political questions and controversies. The activities built into the lessons plans in the Teacher's Guide include directed discussions, debate, and simulations. Each of the 31 lessons contains a lesson overview, lesson objectives, teaching procedures, and optional activities. A number of student handouts also are included in the teacher's guide. The six lesson units are: political philosophy, history and experience, the Constitution, establishment of the government, fundamental rights, and responsibilities of the citizen. A reference section contains the Declaration of Independence, the Constitution of the United States, a glossary of major terms and concepts, biographical notes, a list of important dates, and an index of Supreme Court cases. (DB)

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TEACHER'S GUIDE

a project of the Center for Civic Education
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We the People...

Teacher's Guide
for a
A Secondary Level Student Text

NATIONAL BICENTENNIAL COMPETITION ON THE CONSTITUTION
CENTER FOR CIVIC EDUCATION

Prepared for the
We the People... **Bicentennial Programs**
on the Constitution
and Bill of Rights

Directed by the
Center for Civic Education

Cosponsored by the
Commission on the Bicentennial of the
United States Constitution

Center for Civic Education 5146 Douglas Fir Road • Calabasas, CA 91302 • (818) 340-9320

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William G. Baker, Governor's Task
Force on Citizenship Education,
Indiana

Jack Barlow, Assistant Director for
Educational Programs, Commission
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Michael Les Benedict, Professor
Department of History
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Gayle Binion, Executive Director
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Vincent M. Bonventre, Judicial Fellow
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Margaret Branson, Director of
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R. Freeman Butts, Senior Fellow
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Mark Cannon, Staff Director
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William Cohen, Professor
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Liberty University

J. Peter Euben, Professor
Politics and Classics
University of California, Santa Cruz

Ann Fickling, Research Assistant
to the Director for Educational Programs,
Commisson on the Bicentennial of the
United States Constitution

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Frances Kolb, Staff Associate
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Joseph McElligott, Director
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Introduction

by

Warren E. Burger,

Chairman, Commission on the Bicentennial of the United States Constitution

Chief Justice of the United States, 1969-1986

The years 1987 to 1991 mark the 200th anniversary of the writing, ratification, and implementation of the basic documents of American democracy, the Constitution and the Bill of Rights. Our Constitution has stood the tests and stresses of time, wars, and change. Although it was not perfect, as Benjamin Franklin and many others recognized, it has lasted because it was carefully crafted by men who understood the importance of a system of government sufficiently strong to meet the challenges of the day, yet sufficiently flexible to accommodate and adapt to new political, economic, and social conditions.

Many Americans have but a slight understanding of the Constitution, the Bill of Rights, and the later amendments to which we pledge our allegiance. The lessons in this book are designed to give the next generation of American citizens an understanding of the background, creation, and subsequent history of the unique system of government brought into being by our Constitution. At the same time, it will help them to understand the principles and ideals that underlie and give meaning to the Constitution, a system of government by those governed.

Preface

This text introduces students to the study of constitutional government in the United States. It is not a text in constitutional law. Rather, its intent is to provide students with an understanding of how the Constitution came into existence, why it took the form it did, and how it has functioned for the past two hundred years.

Since the Founders were acquainted with and influenced by various political philosophies, it is important that students have an understanding of those philosophies if they are to develop an understanding of why the Constitution was written as it was. They must be able to see how the Founders took the ideas of natural rights and republican government and adapted them to the circumstances of America in the eighteenth century. If students are to understand why the Founders believed a written Constitution was necessary, they need to know how the Founders understood the idea of constitutional government and where that idea came from.

In addition to political philosophy, history and experience were major influences on the Founders. The text provides students with a description of the major developments in constitutional government in England. It also refreshes the students' memory of the 150 years prior to the Revolution, during which the colonists had acquired considerable experience in the practice of government.

Students review the reasons why the colonists decided to seek their independence, and examine the Declaration of Independence as a statement of their basic political ideals at the outbreak of the Revolution. Finally, the students learn of the writing of the state constitutions and the Articles of Confederation and how these early constitutions contributed to the development of the view that a new constitution was necessary.

The study of political philosophy and history provides the necessary background for developing an understanding of the writing, adoption, and ratification of the Constitution. The text provides students with information about the major problems that needed to be resolved and the way in which the Framers resolved them. Here it is important for students to learn how the Framers' response to practical problems was shaped by their understanding of history and their commitment to the fundamental principles of natural rights, republicanism, and constitutionalism. A full understanding of the adoption and ratification of the Constitution requires a comprehension of the arguments for and against the Constitution, that is, the arguments of the Federalists and the Anti-Federalists. These arguments must also be understood in the light of the Framers' understanding of political theory and history.

Having studied the writing, adoption, and ratification of the Constitution and developed an understanding of its philosophical foundation, students are now in a position to begin examining the developments of the following two hundred years. The remainder of the text exposes students to a number of controversies, including those over judicial review, federalism, due process, equal protection, and freedom of speech and religion. Students are helped to understand the kinds of arguments that can be made about these issues, the kinds of evidence that are appropriate, and the factors that need to be taken into account. One result of this sort of educational experience is that the student is better equipped to participate in contemporary debates on public issues. The ability to participate in this way is one of the most important qualifications of citizenship.

The aim of this text, then, is to provide students with an understanding of the American past and to equip them intellectually to be active participants in the American present and future. It is a text that enables students to learn something about political philosophy, history, and political science. In other words, it attempts to provide students with the foundation of a civic education.

This text is based on a conceptually oriented approach that blends expository and inquiry methods, both of which call for active participation by students throughout. The approach stresses the development of analytic and evaluative skills, which will enable students to apply basic substantive knowledge to a wide variety of political questions and controversies. The activities built into the lesson plans in the Teacher's Guide include directed discussions, debate, and simulations. Skill-building exercises are also found in the Student Book. Students are actively involved in their own learning process, acquiring the necessary knowledge for developing an understanding of the American past. They also learn the relevance of the past for understanding the American constitutional system in the present.

Unit One

Political Philosophy

This unit of five lessons introduces students to the study of the United States Constitution. The students learn that the Founders were influenced by certain political philosophies, their understanding of history, and their own experience. Unit One introduces them to the political philosophies which provided the basic principles and ideas underlying the Constitution.

Students are asked to think about the basic questions about government asked by political philosophers. Why do we need government, what should it do, and what makes it legitimate? They then learn about the answers provided by John Locke and other natural rights philosophers. They also begin to understand how philosophers have thought about these questions. In addition, they are shown how the ideas of the natural rights philosophy are expressed in the Declaration of Independence and the Constitution.

The classical ideal of republican government is then described. Students learn what republican government meant, and about the influence of the example of the Roman Republic and the writings of Montesquieu on the way the Founders thought about republican government. Finally, students learn about the fundamental principles of constitutionalism, the difference between constitutional and dictatorial government, and why the Founders believed that a constitution was necessary for the preservation of republican institutions and political liberty.

Objectives

1. Students should be able to describe the major ideas of the natural rights philosophy, classical republicanism, and constitutionalism.

2. Students should be able to explain how these ideas are expressed in the Declaration of Independence and the Constitution.

3. Students should understand how philosophers think about the problems of government.

What would life be like in a "state of nature"?

LESSON OVERVIEW

This lesson introduces students to some of the fundamental ideas of the natural rights philosophy which was one of the major influences on the Founders. The major ideas dealt with include the state of nature, the law of nature, consent, and natural rights. Students learn about these ideas as they were developed by the English philosopher John Locke (1632-1704). They also learn how these ideas are included in the Declaration of Independence. And finally, students become acquainted with the way philosophers have thought about fundamental problems of politics and government.

Students first read and discuss the basic ideas about government of the natural rights philosophy. Next, they are asked to "think like philosophers" in order to develop answers to questions dealt with by the natural rights philosophers. Following this exercise, students compare their answers with those of John Locke. From this experience, they should gain an understanding of the beliefs of the natural rights philosophers about the origins and need for government, the purposes of government, and the basic concepts and principles of the natural rights philosophy. Finally, the students are asked to identify the basic ideas of this philosophy that appear in the Declaration of Independence.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to describe how and why the natural rights philosophers used an imaginary state of nature to think about the basic problems of government.

2. Students should be able to explain some of the basic ideas of the natural rights philosophy.

3. Students should be able to identify these ideas as they appear in the Declaration of Independence.

4. Students should be able to explain the influence of the natural rights philosophy on the Framers.

TEACHING PROCEDURES

A. Introduction to the development of constitutional government in the United States

Introduce students to this text by giving them a brief overview of its contents and the activities in which they will be taking part (reading, discussions, individual exercises, and group activities, including role playing). Explain to students that they will spend approximately six weeks studying the text in commemoration of the bicentennials of the Constitution and the Bill of Rights.

Explain to students that this course will introduce them to the basic ideas underlying constitutional government, the way the Founders used these ideas, and the development of constitutional government in this country since the adoption and ratification of the Constitution.

B. Reading and Discussion:
Examining basic questions of the natural rights philosophy

Have students read "The natural rights philosophy." Discuss with them the concept of the state of nature and how talking about what life would be like in such a state helps to think about the six basic questions contained in this section.

C. Problem Solving:
Developing answers to the questions asked by the natural rights philosophers

In preparation for this activity, ask students to work in pairs to define what they think a political philosopher does. You may wish to refer them to the glossary in this text or to a dictionary for assistance.

Then, have the class read the directions to the problem-solving section "It's your turn to think like a philosopher." Divide the class into groups of from three to five students each. Ask each group to read the introduction to the exercise and then to develop answers to the six questions it contains. Each group should select a chairperson and a secretary to record responses to the questions. If there are differences of opinion in each group, majority and minority views should be recorded.

After the groups have had an adequate amount of time to develop responses to the questions, ask the chairpersons to report findings to the rest of the class. Then lead a group discussion of the responses.

Finally, refer students to "Locke's answers" on pages 3 and 4. Then lead the class in a discussion comparing their responses with Locke's, and ask them which answers they prefer and why they prefer them.

D. Reading and Discussion:
Identifying the problems of a state of nature

Have students read and discuss "The problems of a state of nature."

E. Reading and Discussion:
Identifying basic ideas contained in the Declaration of Independence

Have students refer to the excerpt from the Declaration of Independence and ask them to identify the basic ideas from the natural rights philosophers about government that it contains. These include the following.

1. All human beings have natural rights. These are the rights to life, liberty, and the pursuit of happiness ("pursuit of happiness" was used by Jefferson rather than the more common term "property" which was used by Locke).

2. The purpose of government is to protect the individual's rights to life, liberty, and the pursuit of happiness (or property).

3. The only legitimate source of political authority is the consent of the governed.

4. Whenever a government abuses its powers at the expense of the rights of its citizens, the citizens have the right to change or eliminate the government and establish a new one.

F. Concluding Activity

Conclude the lesson by leading a discussion of the questions in "Reviewing and using the lesson."

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Ask students to bring to class clippings from newspapers and periodicals that contain examples of the United States government or the governments of other nations, protecting or violating citizens' basic rights to life, liberty, and property.

2. Ask students to gather biographical information about John Locke and report their findings to the class.

3. Ask students to read about Thomas Hobbes (1588-1679) and compare his view of the state of nature with John Locke's. Students may be asked to do this by writing an intellectual dialogue between the two political thinkers.

4. Ask several students to prepare oral reports on major Enlightenment thinkers such as Montesquieu, Jean Jacques Rousseau (1712-1778), and David Hume (1711-1776).

Lesson 2

Why have a government?

LESSON OVERVIEW

This lesson continues the examination of the natural rights philosophy. Students are asked what the purpose of government should be, how it should get its authority, and what the rights of citizens are if government fails to do what it should do.

Students are then introduced to the idea of the social contract as the foundation of legitimate government. They should understand that this idea was, for Locke and others, a means of expressing the notion that government should rest upon consent. Students will also learn that Locke believed the proper purpose of government is the protection of natural rights, and that citizens have the right to alter or abolish governments which do not do this.

Students then learn that each of these ideas is to be found in the Declaration of Independence and/or the Preamble to the Constitution. Finally, the question of what kind of government is most likely to protect natural rights is raised as an introduction to the remaining three lessons of the unit.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to explain John Locke's solution to the problem of the state of nature.

2. Students should be able to describe the fundamental purpose of government, according to the natural rights philosophers.

3. Students should be able to define the terms, social contract and consent, and the relationship between the two ideas.

4. Students should be able to identify where the ideas of the natural rights philosophy they have studied in this lesson appear in the Declaration of Independence and the Preamble to the Constitution.

TEACHING PROCEDURES

A. Reading and Discussion: Reviewing the problems of the state of nature

Have students read "The insecurity of life in a state of nature," and ask them to review the problems it sets forth. Ask them to discuss how people might get out of the state of nature.

B. Reading and Discussion: Learning about the social contract

Refer students to "John Locke's solution--the social contract" and lead them in a discussion of the ideas it contains. Be sure they understand the idea of the social contract and how it contains the position that government should be based upon consent.

C. Problem Solving:
Developing answers to questions of the natural rights philosophers

Have the class read the directions to the problem-solving section "Answering philosophical questions." Divide the class into groups of from three to five students each. Ask each group to read the introduction to the exercise and then to develop answers to the three questions it contains. Each group should select a chairperson and a secretary to record responses to the questions. If there are differences of opinion in each group, majority and minority views should be recorded.

After the groups have had an adequate amount of time to develop responses to the questions, ask the chairpersons to report findings to the rest of the class. Then lead a group discussion of the responses.

D. Reading and Discussion:
Understanding the natural rights philosophers' position on the purpose of government, the basis of political authority, and the right to change or abolish bad governments

Have students read "Compare your answers with John Locke's." Then lead the class in a discussion comparing their responses with Locke's, and ask them which answers they prefer and why they prefer them.

E. Reading and Discussion:
Introducing the problem of determining what form of government is most likely to protect natural rights

Have students read and discuss "What kind of government is most likely to protect the basic rights of the people?" You may wish to have students speculate on the answer to this question in preparation for its treatment in the remaining lessons of this unit.

F. Concluding Activity

Conclude the lesson by leading a discussion of the questions included in "Reviewing and using the lesson."

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Select several students to report on contemporary governments in the world in which basic human rights are not secure.

2. Have a student report on the novel *Lord of the Flies* and compare its view of life without government with that of John Locke.

3. Have students list the ways governments make their rights more secure. Compile a master list on the chalkboard. Lead a class discussion of what life might be like without such protections.

4. Have students discuss how governmental protection of the rights of some people might require limiting the rights of others.

Lesson 3

What is republican government?

LESSON OVERVIEW

This lesson introduces students to the concept of republican government. They learn how the Founders were influenced by the example of the Roman Republic. They also examine the basic ideas underlying this form of government as they were developed by Montesquieu, a French philosopher whose writings were highly regarded by the Founders. Students learn that two of the basic ideas of republicanism were that (1) a republic is devoted to the common welfare of its citizens, and (2) its citizens must possess civic virtue--that is, they must put the common welfare above their own selfish interests. These two ideas--the common welfare and civic virtue--played a large role in the deliberations of the Founders.

Students learn that most philosophers believed that a republican government must be a mixed government. This was the only form of government, they argued, that would achieve the common welfare rather than the welfare of one particular class or group. They also learn what a mixed government is.

Finally, students learn how James Madison adapted the classical idea of republicanism to meet the needs of government in eighteenth-century America.

Students will learn in later lessons that all of the ideas introduced in this lesson played a large role in the establishment of our constitutional system and in the debates between the Federalists and the Anti-Federalists.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to describe the major characteristics of republican government as exemplified by the Roman Republic and as discussed by Montesquieu.

2. Students should demonstrate an understanding of civic virtue and why it was thought to be important.

3. Students should be able to explain in their own terms Montesquieu's argument about the importance and value of mixed government.

4. Students should be able to explain how James Madison adapted the idea of classical republicanism to meet the needs of government in America.

TEACHING PROCEDURES

A. Reading and Discussion: Understanding the influence of the Roman Republic on the Founders

Have students read "The Roman Republic" and "The need for civic virtue." Ask students what impressed the Founders about the Roman Republic and what lessons they learned from its example. Ask students to speculate why Americans in the eighteenth century might have thought the example of the Roman Republic might have applied to them, i.e., did they think that Americans at that time possessed many of the characteristics attributed to the ancient Romans?

The contemporary relevance of this topic may be made clear by asking students to discuss the importance of civic virtue to our present government. Ask students in what ways life in America today encourages or discourages civic virtue.

B. Reading and Discussion: Understanding how Montesquieu believed a government should be organized to promote the common welfare

Have students read "How should a government be organized so it will promote the common welfare?", "Balanced powers," and "A mixed constitution." Ask students to explain how a republican government should be organized according to Montesquieu and why it should be organized that way.

You might also ask students to speculate on what might be the problems of trying to establish the mixed government described by Montesquieu, a government that combined royalty, nobility, and commons, in eighteenth-century America. Students might also be asked to suggest ways a government might be organized to solve the problems they identify; for example, could they substitute large property holders and small property holders for royalty and nobility?

C. Reading and Discussion: Understanding the characteristics of citizens and society thought to be necessary for a republic

Have students read from "What is the importance of civic virtue to republican government?" up to "What did republican government mean to the Founders?" Have them identify and discuss the conditions that were thought necessary for a republic, i.e., civic virtue, a middle-class society, and a small nation.

Ask students to discuss what problems these requirements might present for the application of republicanism to a large and diverse nation.

D. Reading and Discussion: Understanding the Founders' definition of a republican government

Have students read the rest of the lesson and discuss with them what the common welfare might mean. They should understand that different people will define the common welfare in different ways and that the Founders defined it as the protection of individual natural rights.

Next, have students discuss how James Madison refined the notion of republicanism for a large and diverse nation by distinguishing between a democracy and a republic. Ask the students how his definition of a republic as a representative democracy might have solved some of the problems of having a republican government in a large and diverse nation.

Finally, have the students speculate about why the Founders thought a written constitution was necessary for a republican government.

E. Concluding Activity

Conclude the lesson by leading students in a discussion of the questions under "Reviewing and using the lesson." Alternatively, you might ask students to write short essays on one of the questions.

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Ask students to bring to class excerpts from newspapers of recent governmental actions. Ask students to state whether or not each action promotes the common welfare and why.

2. Have students write a short essay on Montesquieu in which they explain his political philosophy in more detail.

3. Select two groups of three to five students each to debate whether Americans today possess the civic virtue the Founders admired. They should be prepared with examples to support their positions.

4. Have students take and explain positions on the possibility of having a republican government in a large and diverse nation.

Lesson 4

What is constitutional government?

LESSON OVERVIEW

This lesson helps students understand the concepts of "constitution," "constitutional government," and "autocratic or dictatorial government." Students learn that while all nations have constitutions, not all nations have constitutional governments. They then learn the essential characteristics that differentiate constitutional government from autocratic or dictatorial government. These include the notions that in a constitutional government the powers of a person or group in government are limited by a set of laws and/or established customs (constitution) which must be obeyed. Furthermore, this constitution is a form of higher law that has the following functions and characteristics: (1) it sets forth the basic rights of citizens to life, liberty, and property; (2) it establishes the responsibility of the government to protect those rights; (3) it establishes limitations on how those in government may use their powers; (4) it establishes the principle of a private domain; and (5) it may not be changed without the widespread consent of the citizens.

Students also learn that a constitutional government may be ruled by one person, a few people, or many. A concluding activity asks students to identify the fears the Founders had about the possible abuse of governmental power and to suggest safeguards they would include in organizing a government to prevent the misuse or abuse of its powers.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to explain the concepts of constitution and constitutional government.

2. Students should be able to explain the essential characteristics of constitutional governments, which differentiate them from autocratic or dictatorial governments.

3. Students should be able to explain how the Founders' view of human nature may have motivated them to establish a constitutional government.

TEACHING PROCEDURES

A. Reading and Discussion:
Introduction to the meaning of "constitution" and "constitutional government"

Introduce students to this lesson by informing them that they are going to learn what a constitution is and to distinguish between constitutional governments and autocratic or dictatorial governments. Have students read, "Defining constitution." Guide them in a discussion of the definition of constitution to be sure they understand the basic points it makes. In particular, they should understand that, according to the definition, every nation has a constitution whether the government is good or bad.

In preparation for the next selection, be sure students understand the final point of this section, which is that if a constitution provides for unlimited power or does not contain ways to limit the powers of government, it does not form the basis for a constitutional government.

B. Reading and Discussion: Understanding the meaning of "constitutional government"

Have students read the sections entitled "Defining constitutional government," "The characteristics of the higher law," and "What kinds of governments may be constitutional governments?" Be sure students understand the basic difference between a constitutional government and autocratic or dictatorial government. Also, be sure they understand the five characteristics of the higher law in a constitutional government.

C. Individual Exercise: Understanding the characteristics of the higher law in a constitutional government

To help students understand the five characteristics, you may wish to have them complete the following exercise. To do so, ask students to read the following provisions from the United States Constitution and to match them with the five principles they reflect.

Provision in Constitution

1. Constitution is supreme law of land.
2. Congress appropriates money.
3. Federal courts resolve disputes.
4. Bill of Rights outlines rights of the people.
5. Amendments must be proposed by Congress, ratified by states.

Principle

a. Changes in constitution according to law.
b. Private domain.
c. Control over distribution of resources.
d. Control of conflict.
e. Constitution is "higher law."

Key: (1)e (2)c (3)d (4)b (5)a

D. Problem Solving: Discussing the Founders' view of human nature and its relationship to their views of constitutional government

Divide the class into groups of three to five students and refer them to the problem-solving exercise, "The Founders' fear of the abuse of power." Ask them to read each quotation it contains and then respond to the two questions at the end of the exercise. Then, lead the class in a discussion of the groups' responses to the questions.

E. Concluding Activity

Conclude the lesson by leading a discussion of the questions contained in "Reviewing and using the lesson."

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Select students to prepare and present reports on countries in the world which have constitutional governments.

2. Select several students to prepare and present reports on practices of the British government which are a part of its unwritten constitution.

3. Select several students to prepare and present reports on Adolf Hitler's early years of power during which he overturned the German constitution. The reports should emphasize the specific steps by which constitutional procedures were abolished.

4. Lead a class discussion on the following quote by Judge Learned Hand: "Liberty lies in the hearts of men and women: when it dies there, no court can ever do much to help it. While it lies there, it needs no constitution, no law, no court to save it."

Lesson 5

How can constitutional governments be organized to prevent the abuse of power?

LESSON OVERVIEW

This lesson helps students understand that constitutional governments are typically organized in a complex way in order to prevent the possibility of the misuse or abuse of their powers. This involves the use of the principles of separation of powers and of checks and balances. Checks and balances means that the powers given to the different branches of government are distributed or "balanced" in such a way that no branch has so much power it can completely dominate the others. Students also learn that the complexity of the organization of constitutional governments means it often takes them a long time to get things done. Students learn that the Framers saw this "inefficiency" as advantageous because they believed that when a decision is finally reached, it will more likely be a good one.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to describe the three branches of government and explain the basic function of each.

2. Students should be able to explain the reasons for the separation of powers and checks and balances in a government.

3. Students should be able to explain the relationship between the separation of powers and the system of checks and balances.

4. Students should be able to cite examples from the Constitution to illustrate the system of checks and balances.

TEACHING PROCEDURES

A. Reading and Discussion: Understanding the separation of powers and checks and balances

Have students read the section "Organizing a constitutional government." Then, write "legislative," "executive," and "judicial" on the board. Ask students to describe the basic function for each.

Next, ask students to explain the meaning of "separation of powers" and "checks and balances" and to give examples of each of the ideas.

B. Reading and Discussion: Understanding the advantages and disadvantages of checks and balances

Have students read "The complexity of constitutional government." To help students understand the Founders' position on the advantages of this complexity, you might read the following anecdote to the class:

> There is a tradition that Thomas Jefferson [two years after the ratification of the Constitution], upon his return from France, was protesting to [President] Washington against the establishment of two houses in the legislature. The incident occurred at the breakfast table, and Washington asked: "Why did you pour cof-

> fee into your saucer?" "To cool it," replied Jefferson. "Even so," said Washington, "we pour legislation into the senatorial saucer to cool it." (Max Farrand, *The Framing of the Constitution*, 1913, p. 74)

You may wish to lead a class discussion in which you use the anecdote to illuminate the Framers' rationale for the separation of powers and checks and balances. Begin by asking the following questions: What specific check written into the Constitution does this anecdote illustrate? Why would Washington expect the Senate to be "cooler" than the House of Representatives?

C. Class Activity:
Identifying examples of the separation of powers and of checks on powers of the three branches of government

Divide the class into three groups, representing the legislative, executive, and judicial branches of the United States government. Using the copy of the Constitution at the back of the student text as a reference, ask students to examine each situation listed in the student handout at the end of this lesson in the teacher's edition and determine whether it calls for an exercise of power by their branch. If the exercise of this power is checked by one of the other branches, it should be noted in the second column. Students must justify their decisions by citing the specific references in the Constitution which led them to make their choice. You may wish to discuss with the class how each situation illustrates the separation of power or checks and balances.

D. Concluding Activity

Conclude the lesson by leading a discussion of the questions in "Reviewing and using the lesson."

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Select students to give a report on noteworthy examples from American history of one branch of the federal government using its constitutional powers to check another branch's power.

2. Have a student give a report on the Watergate issue focusing on the checking of the president's power by Congress and the courts.

3. Select several students to prepare and present reports on the statements and speeches of those who opposed President Franklin Roosevelt's 1937 plan to enlarge, or "pack" the Supreme Court. Reports should stress those points that illustrate the concern for the maintenance of checks and balances.

UNIT OPTIONAL ACTIVITY: Practicing for a competition hearing

Form a team of five to seven students and ask them to prepare a four minute presentation on the following topical question and to be prepared to answer the sub-questions which follow it. Then, have the group make its presentation to the rest of the class which will serve as a simulated congressional committee. After the presentation, the members of the committee should ask the follow-up questions provided below and any other questions relevant to the topical question or the unit as a whole. One student from the "congressional" committee should be selected to chair the proceedings.

Topical question

According to the text, the Declaration of Independence and the Constitution are based on the principles of the natural rights philosophy, republicanism, and constitutionalism. This means that the Constitution establishes a limited government whose primary purpose is to achieve the common welfare by providing protection of the natural rights of individual citizens. Do laws requiring school attendance until the age of 16 violate the principles of the Constitution? Give reasons supporting your position.

Follow-up questions

1. Is it ever legitimate for government to limit natural rights? If so, what arguments can be made to justify such limitations?

2. Is there any inconsistency in arguing that government should protect individual rights and further the common welfare?

3. What are the essential differences between constitutional and autocratic governments?

STUDENT HANDOUT I

	Power Exercised			Power Checked		
Situation	**exec.**	**leg.**	**jud.**	**exec.**	**leg.**	**jud.**
1. A bill is vetoed.						
2. The Department of Defense requests an increase in funding to update military equipment.						
3. The United States needs a new ambassador in the Middle East.						
4. Impeachment proceedings have been brought against the president.						
5. A vacancy on the Supreme Court must be filled.						
6. A treaty with a foreign country to control nuclear weapons is being negotiated.						
7. War is declared on Xanadu.						
8. A bill is being considered to require that all school buses be equipped with seat belts.						
9. A State of the Union message is being prepared.						

Unit Two

History and Experience

Unit Two introduces students to the influence of the development of British constitutional government on the Americans. Students read about the Magna Carta and its significance as well as about the emergence of Parliament and the development of separation of powers in the British political system. The developments in the seventeenth century which led to Parliamentary supremacy are also described.

The text describes how the basic ideas and institutions of the British political system were reflected in the governments of the colonies, before turning to an examination of the events that led to the Revolution. After an examination of the Declaration of Independence, students learn about the major characteristics of the state constitutions and the Articles of Confederation. The unit concludes with a discussion of the problems caused by the weaknesses of the Articles of Confederation which lays the foundation for the discussion of the Philadelphia Convention in Unit Three.

Objectives

1. Students should be able to describe British constitutional development and the relationship of British experience and institutions to the colonial governments.

2. Students should be able to describe the reasons why the colonists decided to separate from Great Britain and how those reasons were expressed in the Declaration of Independence. They should also be able to discuss how the Declaration of Independence is related to the concepts of natural rights, republicanism, and constitutionalism.

3. Students should be able to describe the major characteristics of the state constitutions and how those constitutions reflected the American understanding of natural rights, republicanism, and constitutionalism.

4. Students should be able to describe the Articles of Confederation, explain its weaknesses, and the concerns about those weaknesses that led to the Philadelphia Convention.

What basic ideas of constitutional government were found in the government of England?

LESSON OVERVIEW

This lesson is the first of a series intended to provide students with a historical overview of the evolution of English government and the development of constitutionalism in England and America. In it, students trace English government from tribal rule through feudalism to constitutional monarchy. The Magna Carta and the English Bill of Rights, documents often read about but seldom understood, are discussed in terms of their contribution to constitutionalism. The growth of representative government in England, allowing for a sharing of power between monarchy, nobility, and common people, is examined. Attention is given to the shift in the balance of power from the king to Parliament; and the separation of power between the legislative, executive, and judicial branches of government. The foundation is laid, in this lesson, for understanding the growth of constitutional government in the American colonies.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to explain some of the most important events in the development of English constitutional government.

2. Students should be able to explain how the struggles between the English monarch and Parliament evolved into a system of separated powers and a constitutional monarchy.

3. Students should be able to explain the contributions of such documents as the Magna Carta and the English Bill of Rights to the development of American constitutional government.

TEACHING PROCEDURES

A. Reading and Discussion: Examining the origins of English government

Have students read "The beginnings of English government" and "Feudal government." Discuss the questions in the section "Checking for understanding." Students may be asked to speculate on how the sharing of power between the king and his nobles eventually led to the growth of constitutional government.

B. Reading and Discussion: Examining the origins and importance of the Magna Carta

Have students read "The Magna Carta and the development of constitutional government." Discuss the questions from "Checking for understanding." Students should learn that the practice of shared powers that had originally developed out of practical necessity grew into a tradition. The nobility came to assume that certain rights and powers originally granted to them by the king were now theirs by right alone. Students should understand that the Magna Carta which guaranteed these rights grew out of a struggle between the king and the nobles, and that this document was crucial to the growth of constitutional government.

C. Reading and Discussion:
Understanding the establishment of a balance of power

Have students read from "The establishment of a balance of power among branches of government" up to, but not including, "The British constitutional monarchy." Students should be helped to understand how the basic rights which they studied in Unit One were protected by the growth of constitutional government. They should study the origins and development of the British Parliament and the events leading to the English Bill of Rights. Particular attention should be paid to the shift of power from the king to Parliament and the growth of representative government.

D. Reading and Discussion:
Understanding the basic characteristics of the British constitutional monarchy

Have students read "The British constitutional monarchy." This selection should help them to understand the basic characteristics of the British system as it existed in the eighteenth century. They should also learn that writers such as Montesquieu thought that there was an important relationship between a balanced constitution and political liberty. Students should be able to describe the characteristics of a balanced constitution.

E. Problem Solving:
Identifying basic ideas in British government

Have students divide into groups of three to five and complete the problem-solving activity calling for them to identify examples of the basic ideas they have studied in the history of British government. Then lead students in a discussion of the examples they have identified.

F. Concluding Activity

Conclude the lesson by leading a discussion of the questions contained in "Reviewing and using the lesson." Emphasize the British origins of many of the basic rights in our Constitution so that students will be prepared to understand the ideas discussed in Lesson 7.

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Ask students to imagine they are reporters observing the events at Runnymede in 1215. Have them write a news account for a fictional newspaper in which they describe the scene, what is happening, who the participants are, and what is said. Interviews with leaders and bystanders may be included to get "on the scene" reactions.

2. Select students to report on the events and issues that led to the execution of King Charles I.

3. Write the following events on the board. Ask the class to copy them on their papers in the correct chronological order.

  a. Charles I is put on trial and executed.
  b. William the Conqueror wins the Battle of Hastings.
  c. The Magna Carta is signed.
  d. Parliament creates a Bill of Rights.
  e. Oliver Cromwell becomes leader of England.

Correct answers: b-c-a-e-d

4. Have students research the adoption of the Bill of Rights of 1689. Have one group of students represent the king and one the House of Commons and debate the adoption of the Bill of Rights.

5. In order to help students understand the British origins of many of the basic rights contained in our Constitution, they may do the following assignment in small groups or on an individual basis. Ask students to locate the Bill of Rights and Articles I, II, and III of the Constitution in the copy found at the back of the student text. In the student handout at the end of the lesson is a list of provisions found in the Magna Carta or the English Bill of Rights which students have read in the lesson. Instruct students to locate where in the United States Constitution similar provisions may be found. Ask them to explain how such provisions may differ in the Constitution and how each is important to constitutional government. Ask students to rank them by order of importance in limiting the powers of government.

Key to Student Handout:

1) First Amendment
2) Article III
3) Fifth and Sixth Amendments
4) Fourth Amendment
5) Article I, Section 8
6) First Amendment
7) Eighth Amendment
8) Article II, Section 3

STUDENT HANDOUT II

Rights guaranteed in the Magna Carta or the English Bill of Rights	Where found in the Constitution
1. Freedom of the church from control by the king	
2. The independence of the courts of England	
3. The right of those who owned land to a fair trial	
4. The freedom from unnecessary searches of one's home	
5. The king was not allowed to collect taxes without the consent of Parliament	
6. The king was not allowed to interfere with the right to free speech and debate that went on in Parliament	
7. The king could not require excessive bail or administer cruel and unusual punishments for those accused or convicted of a crime	
8. The king could not declare that laws made by Parliament should not be obeyed	

Lesson 7

What basic ideas of constitutional government were found in the colonial governments?

LESSON OVERVIEW

In this lesson students learn about the basic ideas from British constitutional government that were incorporated into American colonial governments. These included natural rights, higher law, separation of powers, checks and balances, representative government, and the right to vote. The colonists considered themselves to be loyal subjects of England who needed local governments only because of the distance that separated them from England. These colonial governments embodied the elements of constitutional government that have been discussed in earlier lessons. The activity that is included in this lesson helps students to recognize that constitution-building in America was an evolutionary process based on experience as well as on philosophical concepts.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to identify and explain how the basic ideas studied in Unit I and in the first lesson of Unit II were put into effect in the organization of the American colonial governments.

2. Students should be able to explain the extent to which the colonists were free to experiment with their own systems of government and what restraints were placed upon them by the British constitution.

TEACHING PROCEDURES

A. Reading and Discussion: Identifying basic ideas of constitutionalism in colonial governments

Have students read the sections "Loyal subjects of England in America" and "Basic ideas of constitutional government in the colonial governments." Write the five basic ideas contained in the text on the chalkboard. Then ask students to discuss the colonists' use of these ideas in the ways they organized their governments. The ideas are:

1. Natural rights
2. Higher law
3. Separation of powers
4. Checks and balances
5. Representative government and the right to vote

B. Problem Solving: Identifying basic ideas in colonial governments

Refer students to the chart included in the section entitled "Problem solving." Ask them to work in pairs to fill in the second column. As they do this, reproduce the chart on the board. Students can then either be asked to fill in the chart on the board or to call out their answers so you can do this. You may wish to add a column entitled "Modern-day parallels." This will help to give students a sense of the continuity of our form of government as well as of the evolutionary changes.

C. Concluding Activity

Conclude the lesson by leading a discussion of the questions contained in "Reviewing and using the lesson." You may wish to extend the discussion on the third question, allowing students to speculate on what might happen to colonists allowed such freedom to govern themselves when attempts were made to restrict that freedom.

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Ask students to study the governmental structure of the Spanish colonies in America. Their report should stress the differences in organization between these colonies and the British colonies.

2. The lesson states that "England . . . did not have time to supervise the colonies." Have students prepare a report on English history in the 17th and early 18th century to determine whether the statement is valid.

3. Select students to report on the status of colonial women. Reports should concentrate on the legal and political rights of women and their educational opportunities.

4. Have students give oral reports on the political situations in particular colonies in the mid-18th century. The reports should focus on political issues involving governors, legislatures, and the courts.

Why did the colonies want to free themselves from Great Britain?

LESSON OVERVIEW

This lesson surveys the events that led to the American Revolution. Britain's efforts to tighten control over the colonies following the French and Indian War led Parliament to adopt policies which the colonists felt threatened cherished principles of constitutional government. Particular attention is devoted in the lesson to concerns about the perceived "corruption" of the British government. This corruption enabled the King and his ministers to gain so much power they (1) ignored the limitations placed upon them by the English constitution, (2) violated the rights of the people, and (3) favored their own interests at the expense of the common welfare. The lesson contains a description of colonial resistance to British policies and concludes with the Americans' decision to declare themselves independent of English authority.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to explain why the colonists believed that the British government was "corrupt" and what was meant by this term.

2. Students should be able to describe the British policies towards the colonies which the American colonists believed violated some of the basic principles of constitutional government.

3. Students should be able to state the reasons why Americans resisted particular British policies.

TEACHING PROCEDURES

A. Reading and Discussion: Identifying the bases of the colonists' complaints against the British government

Instruct students to read "Preventing the abuse of power," "England becomes a world power," and "Charges of corruption in the English government." Ask the students to discuss what they think the relationship might be between the colonists' concern with corruption in the British government and the theories of republicanism they studied in Lesson 3. They should be helped to understand that upsetting the balance of power in the government was itself a form of corruption leading to the serving of special interests at the expense of the common welfare.

B. Reading and Discussion: Identifying the significance of events that led to the Revolutionary War

Have students read the remainder of the lesson. Ask them what led Parliament to tighten its control over the colonies. Have the students recall specific British policies to which the colonists objected. List students' responses on the board. For each response listed, ask the class to cite reasons why Americans objected to it, and what constitutional principle, if any, was involved.

Lead a class discussion examining what the colonists meant by the slogan "No taxation without representation." What constitutional principles were behind this slogan?

C. Class Activity:
Defending the British and American points of view

Write the following topics on the board:

A. Charges of corruption in the British government

B. Parliament tightens control over the colonies

C. Colonists resist British control

Divide the class into two sections. Tell one section that they will be role playing newspaper editors in Britain during the colonial period who are concerned over the topics listed on the board. Explain to the other section that they will role play their counterparts in the American colonies.

Instruct the class on the function of newspaper editorials, cartoons, and letters to the editor. Stress the point that the purpose of editorials is to advance a point of view and to convince readers to support that position.

Then, subdivide each of the two sections into three groups. Each group will write one letter to the editor, one editorial, and draw one cartoon. Organize the assignment in a manner whereby each group covers all three topics.

When the students have concluded the activity, ask them to present their work to the class.

D. Concluding Activity

Conclude the lesson by leading a discussion of the questions contained in "Reviewing and using the lesson."

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Select students to do research on the "pamphlet war" between opponents and supporters of the British policies and give a report to the class on the arguments used by each side to defend its positions. Or, have two small groups of students conduct a debate on the positions before the class, which should then be asked to discuss and decide which side presented the stronger argument. You might refer students to *Sources and Documents Illustrating the American Revolution, 1764-1788* (1929), S. E. Morison, ed., for their research.

2. Select students to read about the Stamp Act crisis and to give a report to the class on the principles behind the Americans' objections to that Act.

3. Select students to write an eyewitness account of the "Boston Massacre." Then discuss with the class the role of propaganda in revolutions.

Lesson 9

What basic ideas about government are contained in the Declaration of Independence?

LESSON OVERVIEW

In this lesson students are asked to analyze excerpts from the Declaration of Independence in order to identify the basic ideas about constitutional government it contains upon which our nation was founded. This document contains many of the philosophical ideas and principles that students have encountered in earlier lessons. Among these are natural law, social contract and consent as the foundation of political authority, and the right to change or abolish government.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to identify the basic ideas about government which are contained in the Declaration of Independence.

2. Students should be able to discuss how the Declaration of Independence embodies the concepts of the natural rights philosophy, republicanism, and constitutional government.

3. Students should be able to describe the arguments justifying the separation of the colonies from Great Britain that are found in the Declaration of Independence.

TEACHING PROCEDURES

A. Reading and Discussion: Identifying basic arguments of the Declaration of Independence

Have students read "The colonists list their complaints against the king" and "The main arguments of the Declaration of Independence." Outline on the chalkboard and discuss the main arguments listed in the text.

Next, lead students in a reading of the excerpts from the Declaration contained in the section entitled " What basic ideas are contained in the Declaration of Independence?" Have students identify the sections of these excerpts that contain the arguments they have studied.

B. Group Activity and Written Assignment: Analyzing basic ideas of the Declaration of Independence

Divide the class into groups of three to five students. Assign each group two of the questions included in "Examining the Declaration of Independence." Each group should prepare a written response to the questions it has been assigned and report its answers to the entire class for discussion.

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. In 1948, the United Nations General Assembly adopted a Universal Declaration of Human Rights. Have students obtain the declaration from the library and compare it with the Declaration of Independence. Ask them to answer such questions as: (1) Does the United Nations Declaration reflect the same basic ideas as the Declaration of Independence? (2) What are the similarities and differences in the two documents?

2. Ask students to rewrite the Declaration of Independence in their own words.

3. Have the class present a panel discussion in which several of the Founders who signed the Declaration of Independence are represented. Panelists should be asked to explain why they felt they owed an explanation of their actions to world opinion. Why did they feel they had to write a Declaration at all?

4. Have students conduct research to find out the reactions of other nations to the Declaration in 1776.

5. Ask students to do research on the influence of the Declaration of Independence on colonial peoples in the 20th century.

Lesson 10

What basic ideas about government were included in the state constitutions?

LESSON OVERVIEW

In this lesson students learn about the main features of the constitutions of the thirteen new states. These constitutions embodied the basic ideas of the natural rights philosophy, republicanism, and constitutional government that have been studied up to this point. Students learn how these ideas were incorporated into the state constitutions. They also learn how power was concentrated in the legislative branch of all of the state governments except that of Massachusetts. This imbalance of power was thought by some to be largely responsible for the multiple problems that arose in the new states.

Students also learn about the Massachusetts constitution, which sought to establish a more balanced government based on three coequal branches. The structure of the state government of Massachusetts, which included a strong executive branch and representation of different groups in the society, may be considered as anticipating in certain respects the structure of government eventually established under the new Constitution.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to identify and explain the basic ideas of natural rights, republicanism, and constitutional government contained in the early state constitutions.

2. Students should be able to explain differences between the Massachusetts constitution and the constitutions of the other states in terms of some of the basic ideas about government they have been studying.

TEACHING PROCEDURES

A. Reading and Discussion: Identifying basic ideas in state constitutions

Ask students to read "Six basic ideas included in state constitutions." Write the six basic ideas contained in the text on the chalkboard. Then discuss with students how these ideas were embodied in the state constitutions.

B. Problem Solving: Identifying the advantages and disadvantages of legislative supremacy

Divide the class into groups of three to five and have them develop answers to the questions in "Problem solving." Have the groups report their answers to the class. Then lead a discussion to help students understand the advantages and disadvantages of legislative supremacy. Point out how legislative supremacy might violate the principle of checks and balances and lead to majority violation of the rights of minorities.

C. Reading and Discussion:
Identifying differences between the Massachusetts constitution and those of the other states

Have students read from "The Massachusetts constitution" to the end of the lesson. Help them to understand the essential differences in the way the Massachusetts constitution was designed to prevent the abuse of governmental power from the means that were used in the other state constitutions.

D. Debate:
What is the best way to prevent the abuse of governmental power?

Divide the class into groups of three to five students. Assign half of the groups the task of developing arguments in favor of legislative supremacy; the other half, arguments in favor of the form of government created by Massachusetts.

Debate the issue "Legislative supremacy is the best protection of natural rights" by having the groups present their arguments. Begin with a group assigned the affirmative side; follow by one assigned the negative side; alternating thereafter. Allow several minutes for each group presentation. Then lead a class discussion about which arguments the class felt were most convincing and why.

E. Concluding Activity

Conclude the lesson by leading a discussion of the questions contained in "Reviewing and using the lesson."

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Have students write a short story in which the central characters are involved either in writing a state constitution or in the Revolution. The story should include the ideas that the characters felt were important.

2. Ask students to examine the governmental structure of a country that has a parliamentary system of government. How does this kind of government compare with those of the states during the immediate post-revolutionary period?

3. Invite a constitutional scholar from a local college or university to give his or her opinion about the different state constitutions written at this time.

Why did the Founders want to change the Articles of Confederation (1781)?

LESSON OVERVIEW

In this lesson students learn about the need to organize a national government after the colonies declared their independence from Great Britain. They also learn that the colonists' fears of creating too strong a national government prompted them to develop a weak national government under the Articles of Confederation. Problems are discussed relating to the proper basis for congressional representation and to the various interests to be represented, as are the solutions that were finally developed and embodied in the Articles.

The lesson describes how the major weaknesses in the government under the Articles of Confederation eventually led to the movement to create a new constitution that would provide for a stronger national government. Finally, the lesson includes a brief description of Shays' Rebellion, and of the arguments that the state legislatures were being used by majorities, or "factions," with special interests, to deprive minorities of their rights.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to explain why Americans created their first constitution, the Articles of Confederation, as they did.

2. Students should be able to describe the problems of the United States under the Articles of Confederation and explain these problems in their own terms, identifying the basic ideas about government that are involved.

3. Students should be able to explain the concerns the Founders had about the national government under the Articles of Confederation.

TEACHING PROCEDURES

A. Reading and Discussion: Identifying the reasons for the creation of a weak national government

Have students read "The creation of the Articles of Confederation." Lead students in a discussion of the two basic fears of having a strong national government described in the text and of the solutions the Founders developed. Ask the students to discuss why they think these fears existed. In doing so, they should consider the experiences of the Founders, their knowledge of history, and their beliefs about republican government. Students should be asked to speculate on the disadvantages of the government the Founders created.

B. Reading and Discussion: Identifying problems of the national government under the Articles of Confederation

Have students read " Problems caused by the weaknesses of the Articles of Confederation." Lead students in a discussion of each of the five major problems of the government under the Articles of Confederation described in the text. Ask students to speculate whether these were problems caused by the Articles of Confederation or by the state constitutions or both. Be sure they understand what a faction is, and that it is what we would now call an interest group.

They should be helped to understand that some people feared that factions led to the violation of property rights. And, finally, help them understand why factions were thought to violate the basic idea of republicanism.

To help students understand the powers of the national government under the Articles, you may wish to have them complete the following exercise.

Write the following powers on the board. Have students answer "yes" if it is a power that the national government had under the Articles, "no" if it is not.

1. To regulate trade between two or more states.
2. To carry out laws Congress passed.
3. To make treaties with foreign nations.
4. To tax.
5. To require states to abide by national treaties.

Key: (1)no (2)no (3)yes (4)no (5)no

C. Reading and Discussion:
Understanding the reasons for the call for a stronger national government

Have students read "Shays' Rebellion and the seeds of change." Then discuss the event with them and help them understand the conflict it represented, and how it and the other problems noted might have precipitated among some Americans the desire for a stronger national government.

D. Concluding Activity

Conclude the lesson by leading a discussion of the questions contained in "Reviewing and using the lesson."

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Ask students to compare the government under the Articles of Confederation with one of the contemporary confederations of nations (e.g., the United Nations, European Economic Community, Organization of American States, Organization of African States) and identify the similarities and differences.

2. Have students write an essay in which they speculate about what the United States would be like today if the Articles of Confederation had been kept as the constitution.

3. Have the class work in teams of two or three students. The task is to compare and contrast the excerpts from the Articles of Confederation given below with the corresponding clause in the Constitution. Using the copy of the Constitution at the back of the student text, ask students to locate the corresponding constitutional clause or clauses. Ask students to write a brief description of the similarities and the differences between the two clauses.

   a. ARTICLE V: ". . . delegates shall be annually appointed in such manner as the legislature of each state shall direct, to meet in Congress on the first Monday in November , . . ."

   b. ARTICLE V: "No state shall be represented in Congress by less than two, nor by more than seven Members, . . ."

   c. ARTICLE V: "In determining questions in the united states in Congress assembled, each state shall have one vote."

   d. ARTICLE VI: "No state, without the Consent of the united states in Congress assembled, shall . . . enter into any . . . alliance or treaty with any King, prince, or state ; . . ."

e. ARTICLE VIII: "All charges of war, and all other expenses that shall be incurred for common defence or general welfare . . . shall be supplied by the several states in proportion to the value of all land within each state , . . ."

f. ARTICLE IX: "The united states in Congress assembled shall also be the last resort on appeal in all disputes . . . between two or more states . . . ."

g. ARTICLE IX: "The united states in Congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective states . . . ."

5. To help students understand the conflict involved in Shays' Rebellion, you might want to conduct the following simulation.

Shays' Rebellion provides a dramatic setting for examining some of the basic ideas about representative democracy and constitutional government. Ask students to imagine that they were taking part in a television interview of some of the major personalities who were involved in, or commented on, the rebellion. Assign the roles of TV interviewers to two or three students. Divide the rest of the class into small groups. Each group will represent a historical personality, such as Daniel Shays or one of his followers, and Abigail Adams or other citizens of Massachusetts opposed to the rebellion.

Students should conduct research to determine the positions of the above persons.

After each group prepares a position statement, conduct the simulated television interview, asking the interviewers to question the groups on their points of view. Each interviewee should be asked whether or not he or she is in favor of a stronger national government, and why or why not.

UNIT OPTIONAL ACTIVITY: Practicing for a competition hearing

Form a team of five to seven students and ask them to prepare a four-minute presentation on the following topical question and to be prepared to answer the sub-questions which follow it. Then, have the group make its presentation to the rest of the class which will serve as a simulated congressional committee. After the presentation, the members of the committee should ask the follow-up questions provided below and any other questions relevant to the topical question or the unit as a whole. One student from the "congressional" committee should be selected to chair the proceedings.

Topical question

What was the relationship of the history of constitutional government in England and the experience of the colonists for 150 years prior to the Revolution, to the Declaration of Independence, and to the Articles of Confederation?

Follow-up questions

1. Explain the meaning of corruption and its significance for the colonists' decision to seek independence.

2. How did most of the state constitutions reflect the colonists' experience in the British Empire?

3. What did some people think were the main weaknesses of the Articles of Confederation?

Unit Three

The Constitution

The unit begins with an account of those who attended the Philadelphia Convention and the way the delegates decided to conduct the Convention. The text then describes the Virginia and New Jersey plans and the conflicting points of view they represented. The students will also learn why the Virginia Plan was used as the basis for the deliberations of the Convention.

The next subject is the legislative branch. Here the students learn about the reasons for the division of the legislative branch into two houses as well as why each state has two representatives in the Senate while representation in the House is based on population. After explaining the powers of Congress, the lesson concludes with a discussion of some of the disagreements that separated the northern and southern states.

After a discussion of the way the delegates organized the executive and judicial branches and some of the difficulties presented by the organization of those branches, the unit concludes with a discussion of the disagreements between the proponents and opponents of the Constitution: the Federalists and the Anti-Federalists. The students will also learn how these disagreements were related to differing views of the requirements of the natural rights philosophy, republicanism, and constitutionalism.

Objectives

1. The students should be able to describe how the Philadelphia Convention came about and who attended.

2. The students should be able to describe the proceedings at the Convention and the agreements and disagreements over the writing of the Constitution. They should also understand how the discussions about the various provisions in the Constitution reflected the basic principles of the natural rights philosophy, republicanism, and constitutionalism.

3. The students should demonstrate an understanding of the arguments of the Federalists and Anti-Federalists, and how these arguments contained various elements of the political philosophies they have studied.

Lesson 12

Who attended the Philadelphia Convention and what had they agreed to do?

LESSON OVERVIEW

This lesson is intended to provide the students with an understanding of the events leading up to the Philadelphia Convention and the reasons it was held. The lesson also focuses on the background and characteristics of some of the leading Framers.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to explain how and why the Philadelphia Convention took place.

2. Students should be able to describe the characteristics of the Framers.

3. Students should be able to explain the Framers' agreements on how the Convention would be conducted.

TEACHING PROCEDURES

A. Reading and Discussion: Identifying the characteristics of the Framers

Have the students read the sections "Attempts to solve the problems of the Articles of Confederation," "Congress approves a meeting to improve the Articles of Confederation," and "Who attended the Philadelphia Convention?" Review with students the steps leading up to the Philadelphia Convention. Then lead a class discussion of the common traits of the Framers. You may wish to introduce the question of whether the Framers were representative of the American people of 1787. Ask students if they think that such a group could protect the interests of average Americans. Why? Why not?

Next, ask students to read "George Washington," "James Madison," "Other important delegates," and "Important Founders who did not attend the convention." Class discussion should focus on the reasons why Madison has been called "the master builder of the Constitution." You might want to present the idea here that, though he rarely participated in the debates, a case can be made that Washington was the most important Framer.

You may wish to use the matching exercise at the end of the lesson (Handout III) to give students practice in identifying key members of the convention as well as key personalities who were not in attendance. The answer key for this exercise is: (1)e (2)f (3)g (4)a (5)b (6)c (7)d.

B. Reading and Discussion: Understanding decisions of the Framers

Have students read "The convention begins." Have students discuss why they think the members of the convention decided to ignore the instructions of Congress, and whether they think that decision was justified. Then have them discuss the Framers' justification for keeping the record of the convention secret, and whether they think that justification was adequate.

C. Class Discussion:
Identifying characteristics of the Framers

Ask students to identify those traits the Framers had in common. Then ask them to discuss why these people were chosen as delegates to the convention. The students may identify some of the following attributes of the Framers: (1) they were experienced in colonial, state, and national government; (2) they were accorded a high level of respect; (3) they had great understanding of the principles of government; (4) they were reasonably affluent; and (5) they were familiar with the history of English government and the writings of political philosophers.

D. Concluding Activity

Conclude the lesson by leading a discussion of the questions contained in "Reviewing and using the lesson." Students may be asked to present their responses in writing or orally to the class for further discussion.

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Ask students to go to the library and work with their librarians to locate information about "sunshine laws" or "executive hearings." "Sunshine laws" require governmental entities to hold open meetings when public policies are being discussed or political decisions are being made; "executive hearings" are closed hearings. Students should relate their findings to the decision to keep the constitutional debates secret.

2. Article II of the Constitution provides that only native born citizens can serve as president and vice president of the United States. Ask students: (1) to find out who was the first president of the United States who was born after the Declaration of Independence, and (2) which of the seven Framers about whom biographical data are given was not even born in the colonies.

3. Select students to read and report to the class on Chapter 2 of Max Farrand's *The Framing of the Constitution of the United States.* This chapter contains William Pierce's descriptions of many of his fellow delegates.

4. In recent years there have been calls for a constitutional convention. If such a convention were to be held today, what should be the make-up of its members? In small groups, have students suggest lists of characteristics for members of a contemporary constitutional convention.

STUDENT HANDOUT III

1. George Washington
2. James Madison
3. Alexander Hamilton
4. George Mason
5. Benjamin Franklin
6. Patrick Henry
7. John Adams

a. One of three delegates who refused to sign the Constitution
b. Oldest member of the convention
c. Did not attend the convention because he feared a strong national government
d. Did not attend because he was in England
e. Presiding officer at the convention
f. Wrote the Virginia Plan
g. Left before the convention ended but returned to sign the Constitution

Why did the Framers use the Virginia Plan to create the new Constitution?

LESSON OVERVIEW

This lesson is intended to describe how the Framers began to write a constitution based upon: (1) their understanding of political philosophy and history, (2) the British constitutional system, and (3) their own experience in politics. In the lesson, students study the basic elements of two plans of government--the Virginia and New Jersey plans--which were submitted to the convention for consideration. Both plans embodied the important ideas about government that the students have studied, differing only in the application, emphasis, and relative importance placed on these ideas. Students will learn why the Virginia Plan was eventually used as the basis for the Constitution of the United States. The lesson also includes information about the disagreements among the delegates regarding representation and the extent of power that the proposed national government should have.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to describe the basic elements of the Virginia Plan and the New Jersey Plan and the differences between them.

2. Students should be able to relate these elements to the basic ideas of government which they have studied.

3. Students should be able to explain the reasons for the disagreements among the delegates regarding representation.

4. Students should be able to explain why the Virginia Plan was used as the basis for the new Constitution rather than the New Jersey Plan.

TEACHING PROCEDURES

A. Reading and Discussion:
Understanding alternate plans for the new Constitution

Have students read the sections "The need to create a new constitution," "The Virginia Plan," "Reactions to the Virginia Plan," and "The New Jersey Plan." Then, review the text to make sure the students understand the major elements of each plan and the differences between them. Help students to understand the basis of the opposition to the Virginia Plan.

To help students analyze the differences between the two plans, it might be useful to write on the board student responses to the following topics.

Virginia Plan	New Jersey Plan
Legislative Branch	Legislative Branch
How Elected	How Elected
Extent of Powers	Extent of Powers
Executive Branch	Executive Branch
Judicial Branch	Judicial Branch

B. Problem Solving: Evaluating the two plans

Have students complete the exercise contained in the problem-solving activity, "Which was the better plan?" and discuss their findings.

C. Reading and Discussion: Understanding why the Virginia Plan was used

You may wish students to speculate on why the Virginia Plan was used to form the basis for the Constitution before reading this section. Then have students read "Why was the Virginia Plan used?" Lead them in a discussion of why the Virginia Plan was used and the unresolved issues contained in this section of the text.

D. Concluding Activity

Conclude the lesson by leading a discussion of the questions contained in "Reviewing and using the lesson." Students may be asked to present their responses in writing or orally to the class for further discussion.

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Select several students to read detailed treatments of the Philadelphia Convention and report to the class on subjects that were extensively debated at the Convention.

2. Have students report to the class on contributions of Framers who are not mentioned in the text.

3. Have students do research on the history of proportional representation in the United States.

4. Have students report to the class on anecdotal material from the convention.

Lesson 14

How did the Framers develop the legislative branch and what powers did they give it?

LESSON OVERVIEW

This lesson deals with the development of Article I of the Constitution, the controversies over its development, the compromises reached to gain adoption, and some of the powers it grants to Congress and the national government. Students examine some of the major issues debated in developing the legislative branch of the national government. These include the debate over equal and proportional representation in the Congress and the debate and compromises made to get the southern states to become a part of the new nation.

The lesson also examines some of the powers granted to Congress by the Constitution, as well as constitutional limits on the powers of state governments.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to explain how and why the present system of representation in Congress came to be and the advantages and disadvantages of the system.

2. Students should be able to describe how Article I of the Constitution delegates explicit powers to the Congress and limits powers of the state governments.

3. Students should be able to describe the "three-fifths clause" and the "fugitive slave clause" and explain what issues they were intended to resolve.

TEACHING PROCEDURES

A. Reading and Problem Solving: Understanding the debate over representation in Congress

Have students read "How should Congress be organized?" and "The problem of representation." Be sure they understand the differences between equal and proportional representation and the bases for the different positions on them.

Then have students participate in the "Problem solving" exercise, following the directions in the student text. Remind students that although they should fairly represent their state interest, they, like the Framers, should attempt to develop a plan that will be acceptable to all.

Once the problem-solving activity has been completed, have students read "The Great Compromise" and compare their solutions with the plan accepted by the Framers. Lead students in a discussion of how the experience of the Framers was similar to their own committee discussions. How was it different?

B. Reading and Discussion: Understanding the powers of Congress

Have students read from "The powers of Congress - Article I of the Constitution" up to, but not including, "Problems that separated the northern and southern states." Be sure students understand the powers given to the federal government and the limitations placed upon the powers of the state governments. Students should discuss how these provisions in the Constitution reflected the experience of the United States under the Articles of Confederation. You might also want to discuss how these provisions are related to the fundamental principles of natural rights, republicanism, and constitutionalism.

C. Reading and Debate:
Understanding the problems separating the northern and southern states

Have students read "Problems that separated the northern and southern states" and the remaining selections in the lesson. Review with the students the basic problems between the northern and southern states and the nature of the solution reached at the convention.

To further student understanding, you may wish to divide the class into three groups. Two of these groups should prepare for and debate opposing positions on the following question, "Resolved: the delegates to the Philadelphia Convention were wrong to compromise on the issue of slavery." The third group should discuss the question and then judge the debate.

D. Concluding Activity

Conclude the lesson by leading a discussion of the questions included in "Reviewing and using the lesson."

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Refer students to Article I, Section 8 of the Constitution. Ask them to list any powers of Congress that are not included that they believe should be. They should also suggest which powers, if any, that are included they believe should not be granted to the federal government. Students should support their suggestions for each addition and deletion.

2. Ask students to relate each of the powers listed in Article I, Section 8, to the general purposes of government which are found in the Preamble.

3. Select students to read a detailed treatment of the Philadelphia Convention and to report to the class on George Mason's speech on the evils of slavery.

Lesson 15

How did the Framers develop the executive and judicial branches and what powers did they give these branches?

LESSON OVERVIEW

This lesson deals with the development of Articles II and III of the Constitution which established the executive and judicial branches of the national government. Students learn of the Framers' fears of creating too strong an executive branch and the resulting provisions for checks and balances they included in the Constitution. They also examine the issues raised in developing a means of selecting the president; of the solution arrived at by the delegates--the electoral college; and of the reasons for the selection of this method.

The establishment of the federal judiciary and its powers under Article III are examined, with particular attention to the issue the delegates did not decide--that is, whether the federal judiciary should have the power of judicial review over actions of the other branches of the national government.

LESSON OBJECTIVES

At the conclusion of this lesson:

l. Students should be able to explain the basic organization of the executive and judicial branches set forth in Articles II and III of the Constitution.

2. Students should be able to describe the limitations on the powers of the executive and judicial branches.

3. Students should be able to explain why the Framers developed the electoral college as the method for selecting the president.

TEACHING PROCEDURES

A. Reading and Discussion: Understanding why the Framers were concerned about executive power

Have students read "Limiting the power of the executive." Review with students what they have learned about the Framers' views on government and the major dangers to be expected from government. Then discuss the reasons why most of the Framers were so concerned about giving excessive power to the executive.

B. Reading and Group Activity: Understanding the responsibilities, powers, and limitations placed on the executive branch

Have students read the section "The executive branch - Article II of the Constitution." List on the chalkboard the five major questions concerning the executive branch contained in this section. Review with the students the Framers' solutions to the first three questions.

Then, divide the class into groups of three to five students and assign half of the groups to question 4 and the other half to question 5. Ask the groups to prepare written and/or oral presentations describing the Framers' solutions and the reasoning behind them. Then lead the class in a discussion of the groups' reports.

C. Reading and Discussion:
Understanding the responsibilities, powers, and limitations placed upon the judicial branch

Have the students read the rest of the lesson. Then discuss the following three questions with the students.

1. How was the independence of judges from politics to be protected? Why did the Framers think it was important for judges to be independent?

2. What kinds of powers did the judicial branch have?

3. What kind of cases was the Supreme Court authorized to handle?

Conclude the discussion of this section by asking students to identify how giving the Court the power of judicial review might conflict with the principle of representative democracy.

D. Concluding Activity

Conclude the lesson by leading a discussion of the questions included in "Reviewing and using the lesson."

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Have students go to the library to find out about some of the alternatives to the electoral college that have been suggested. Their reports should explain how the alternatives would work and their advantages and disadvantages.

2. Have students locate in the library some of the suggested alternatives to the present term of office of the president. What advantages and disadvantages do the alternatives have?

3. Select students to read "The Future of the Vice Presidency" in Arthur Schlesinger, Jr.'s *The Cycles of American History* and report to the class on Schlesinger's opinion of the office.

4. Have students debate whether they think Supreme Court justices should be elected and restricted to a fixed term of office.

5. To help students understand the responsibilities of the president, you may wish to use the following activity.

Have students work in pairs to complete this activity which involves writing a job description for the president of the United States. Using the copy of the Constitution at the back of the student text as a reference, ask students to locate Article II. Explain to them that in exercising their responsibilities as citizens, voters also assume the responsibility of knowing the tasks a president must perform before they can determine whether a candidate possesses the characteristics desirable in a person seeking to fill that office.

Instruct students to analyze Article II before they begin writing their job description for president of the United States. Tell them that the job description should detail the duties, powers, privileges, and limitations of the position. When they have concluded writing their job description, ask students to create a list of the essential characteristics a person should possess to be a president of the United States. Discuss these ideas as a class and have the class create a profile of an individual who might be an effective president.

What conflicting opinions did the Framers have about the completed Constitution?

LESSON OVERVIEW

In this lesson students learn of some of the disagreements about the Constitution which set the stage for the debates over its ratification. These are significant because many have to do with issues that are still discussed and debated today. Students read a statement by Benjamin Franklin who supported the adoption of the Constitution, the objections of George Mason who opposed it, and the last notes on the convention written by James Madison. Student analysis of the objections of George Mason focuses upon his use of the basic ideas of constitutional government, republicanism, and representative government to make his case against the Constitution.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to explain the comments made by Benjamin Franklin and James Madison who favored the adoption of the Constitution.

2. Students should be able to explain the position of George Mason and give arguments in support of and in opposition to his criticisms of the Constitution.

TEACHING PROCEDURES

A. Reading and Discussion:
Identifying reasons for opposition to the Constitution

Have students read "Framers for and against the Constitution." Ask them to speculate, on the basis of what they have learned about the Philadelphia Convention, why Alexander Hamilton and Elbridge Gerry anticipated opposition to the adoption and ratification of the Constitution.

B. Reading and Group Activity:
Presenting alternative positions

Have students read the rest of the lesson. Then divide the class into four groups. Have one group present Franklin's position and a second group respond critically to it. Then have another group present Mason's position and a second group respond critically to it. After each pair of presentations, the entire class should decide which presentation was more persuasive.

You may wish to conclude the activity with a discussion of what relevance, if any, Mason's objections have to today's government under the Constitution.

C. Concluding Activity

Conclude the lesson by leading a discussion of the questions included in "Reviewing and using the lesson."

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Have students read studies of the convention and select speeches by Mason to be read to the class.

2. Ask the students to write a paragraph speculating on what would have happened if the Constitution had not been ratified.

3. Select students to read from a biography of John Hancock of Massachusetts and to report to the class how he was persuaded to support the Constitution.

4. Have students work in pairs or in small groups to complete the following exercise. Ask students to turn to the section "George Mason's objections to the Constitution" in the lesson. Ask them to re-read each of George Mason's objections and identify for each objection the principle of government Mason believed the Constitution may have violated. Discuss their ideas as a class.

What was the Federalists' position in the debate over ratification?

LESSON OVERVIEW

In this lesson students learn about the strategy and the arguments the Federalists used to get the Constitution ratified. These include their use of the concepts of the social contract and consent; and the argument that it is unrealistic, in an extended republic, to rely upon the traditional notion of a small nation of citizens possessing civic virtue as the best means of protecting natural rights and promoting the common welfare. Instead, the Federalists argued, in a large and diverse nation, these goals are best served by a federal system consisting of complex provisions for representation, separation of powers, and checks and balances to make it impossible for self-interested factions to form a majority at the expense of minority rights and the common welfare.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to explain why the Federalists wanted the Constitution to be ratified in state conventions, and the arguments they used to justify this procedure which is included in Article VII of the Constitution.

2. Students should be able to explain the arguments made by the Federalists in support of the Constitution. This should include explaining how the Federalists' arguments differed from classical arguments about republican government.

TEACHING PROCEDURES

A. Reading and Discussion:
Understanding the reason for the Federalists' support of state ratifying conventions

Have students read from "The Federalists ask the voters to approve the Constitution" up to, but not including, "The Federalists' arguments for the Constitution." Help students understand the strategy and position of the Federalists in planning for the ratification of the Constitution, and how they used the ideas of the social contract and consent in justifying their position. The students should also understand that the Federalists were better organized than their opponents, the Anti-Federalists. Students should know that *The Federalist* was written by Hamilton, Madison, and Jay as a part of the debate over ratification in the state of New York.

B. Reading and Group Activity:
Understanding the Federalists' arguments for the Constitution

Have the students read the remainder of the lesson. Divide the class into three groups. Assign each to read one of the three sections in which the Federalists' argument is described in the text. Then have each group present its argument to the class.

In a concluding discussion, ask students whether they agree with all of the arguments of the Federalists. If they disagree, they should be asked to give their reasons. For example, some students might suggest that a government that has fewer checks and balances would be more efficient and therefore better able to promote the common welfare. Students supporting such a position should be asked to provide evidence to back their position.

C. Concluding Activity

Conclude the lesson by leading a discussion of the questions included in "Reviewing and using the lesson."

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Have students obtain a copy of *The Federalist* and read one of the essays. They should explain the position taken in the essay to the class in their own terms.

2. If your state is one of the original thirteen, have students do research on the ratification convention in the state.

3. Have students study in detail the ratification battle in New York and account for the Federalist victory there.

4. Students should prepare a report for the class in which they explain why Rhode Island took so long to join the Union under the Constitution.

Lesson 18

What was the Anti-Federalists' position in the debate over ratification?

LESSON OVERVIEW

This lesson presents the Anti-Federalists' criticisms of the Constitution which are illustrated by the arguments of Mercy Otis Warren. The Anti-Federalists' position was based on traditional ideas about the requirements for republican government. These included such ideas stated by Montesquieu and others as the need for a small community of citizens possessing civic virtue with common interests that facilitate agreement on their common welfare; representative government; widespread suffrage; the effective separation of powers; and checks and balances. Students learn the Federalists' response to the criticisms of the Anti-Federalists, and how the debate between the two groups led to the development and adoption of the Bill of Rights.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to explain the arguments of the Anti-Federalists and how those arguments were based upon traditional ideas of republican government.

2. Students should be able to explain the responses of the Federalists to the criticisms of the Anti-Federalists.

3. Students should be able to explain how the debate between the Federalists and Anti-Federalists led to the development and adoption of the Bill of Rights.

TEACHING PROCEDURES

A. Reading, Discussion, and Group Activity: Understanding the position of the Anti-Federalists

Have students read "The concerns of the Anti-Federalists" and "The importance of representative government and civic virtue." Be sure students know who the Anti-Federalists were and why they were fearful of the new government proposed by the Constitution. They should understand the general position of the Anti-Federalists on what constituted republican government.

Then have students read from "The arguments of the Anti-Federalists" up to and including "The Federalists' response." Select five students to present the arguments of the Anti-Federalists against the Constitution and five students to present the Federalists' response. Then engage the entire class in a discussion of the merits of these arguments.

B. Reading and Writing Activity: Understanding the different positions on the need for a Bill of Rights

Have the students read "The agreement to add a bill of rights." Then have them analyze the merits of the opposing positions on the Bill of Rights and describe the agreement that was reached between the Federalists and Anti-Federalists. This task may also be done as a writing activity.

C. Concluding Activity

Conclude the lesson by leading a discussion of the questions included in "Reviewing and using the lesson."

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Have students conduct research in the library on Mercy Otis Warren, George Mason, and other prominent Anti-Federalists. They should present their findings to the rest of the class.

2. Twelve amendments were proposed to make up the Bill of Rights. Only ten were ratified. Which two proposed amendments failed to pass? Why were they defeated?

3. Have the class conduct a ratification debate between the Federalists and the Anti-Federalists as the final activity of this unit. You may wish to have this held before a panel of judges selected from the community. The activity would probably require two days to complete. Use the following procedures for the debate.

   a. Divide the class into two teams. Assign one team the task of developing a ten-to-fifteen minute presentation on the arguments of the Federalists. Assign the other team the task of developing a similar presentation on the arguments of the Anti-Federalists.

   b. Divide each team into groups consisting of five students each. Ask these smaller groups to do research to identify arguments and supporting information on their team's position. The small groups may be assigned different research tasks. Reference materials may include copies of the arguments set forth by the Federalists and Anti-Federalists located in the appendix of this teacher's edition, the information contained in Lessons 17 and 18 of the text, or other reference materials you identify.

   c. After they have completed their research, the groups composing each team should work together to develop the sequence of points to be made in presenting the team's position.

   d. Each team should then select from three to five students to present its position before the class. After the presenters have been selected, they should rehearse their arguments before the rest of the members of their team who, acting as judges, should question the presenters during and after their presentations.

   e. Start the hearing by having the spokespersons for the Federalist position present their arguments orally, taking from ten to fifteen minutes. Questions should be asked only after the presentation is completed. This same procedure should be used for the Anti-Federalists' team.

UNIT OPTIONAL ACTIVITY: Practicing for a competition hearing

(See page 13 for the procedures to be used in this hearing.)

Topical question

Both the Federalists and the Anti-Federalists believed in the natural rights philosophy, republicanism and constitutionalism. If this is so, how can you explain the fact that the Federalists supported the ratification of the Constitution while the Anti-Federalists bitterly opposed it?

Follow-up questions

1. How would you justify the Framers' ignoring their instructions only to revise the Articles of Confederation?

2. How do you explain the Framers' decision to count a black slave as 3/5 of a person? Do you think this decision was justified? Why?

3. How would you describe the men who attended the Philadelphia Convention? What significance, if any, did their characteristics have on the Constitution produced by the Convention?

Unit Four

Establishment of the Government

This unit describes some of the more important developments under the new Constitution. In addition to learning about the organization of the executive and judicial branches, students study the manner in which the Bill of Rights was added to the Constitution. The text then discusses a development the Framers had not anticipated: the rise of political parties. Students learn how and why this was significant from the point of view of both the Framers' expectations and for American politics. After studying the development of and controversies over judicial review, students learn about federalism in the United States and how it differs from other forms of political organization.

Objectives

1. Students should be able to describe the way the executive and judicial branches were organized, and how and why the Bill of Rights was added to the Constitution.

2. Students should be able to describe why the development of political parties is important.

3. Students should be able to describe the origins of judicial review and the arguments about how the Supreme Court should interpret the Constitution.

4. Students should be able to describe a federal system, how it differs from other forms of political organization, and how federalism functions in the United States.

How was the Constitution used to organize the new government?

LESSON OVERVIEW

This lesson explains how, using the guidelines provided by the Constitution, the first Congress announced the results of the vote in the electoral college for the new president and vice president, drafted a Bill of Rights, and organized the judicial and executive branches of the national government. Students learn that the Constitution provided a general framework for the government, leaving many necessary details to be worked out later by the Congress and the other branches. Students also learn of one of the events not foreseen by the Framers, the significant growth of the executive branch and the federal bureaucracy.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to explain that the Constitution provides a general framework outlining how the government should be organized and should operate, and that details are added by the government as the need arises.

2. Students should be able to explain why and how the Bill of Rights was added as a series of amendments to the Constitution and why it applied only to actions of the federal government.

3. Students should be able to describe the federal court system that was established by Congress in the Judiciary Act of 1789.

4. Students should be able to describe how Congress organized the executive branch and the unforeseen growth of this branch and of the federal bureaucracy.

TEACHING PROCEDURES

A. Reading, Discussion, and Debate:
Understanding the role and tasks of the first Congress and the reasons why the Bill of Rights was drafted as a series of amendments

Have students read "Tasks of the first Congress" and the first two sections under it. Be sure students understand the role of the electoral college, and that the task of Congress was not to select the president and vice president, but merely to count the votes to determine and announce the results of the election.

Lead students in a discussion of the section on the Bill of Rights, making sure they understand the positions of James Madison and Roger Sherman regarding the manner in which the Bill of Rights was to be added to the Constitution. Students should be able to relate these arguments to their understanding of the role of a constitution in a constitutional system of government. You may wish to have students debate both positions.

Also, be sure students understand that, although Madison argued for a number of the provisions of the Bill of Rights to apply to the state governments, the final result was that the Bill of Rights was only made applicable to the federal government.

B. Reading and Discussion: Understanding how Congress organized the judicial branch

Have students read "Organizing the judicial branch." Be sure students understand the basic organization of the federal court system and the function of the two levels of courts and the Supreme Court. They should also understand that each state has a parallel system of courts and that the state and federal court systems are related to one another.

C. Reading and Discussion: Understanding how Congress organized the executive branch

Have students read the remaining sections of the lesson. Students should understand the origins of the cabinet and the executive departments which were established by Congress and not provided for by the Constitution. Students should also understand that the growth of the federal bureaucracy was not anticipated. You may wish them to speculate on what effect the large federal bureaucracy has had on the system of checks and balances.

D. Concluding Activity

Conclude the lesson by leading a discussion of the questions included in "Reviewing and using the lesson."

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. The Framers were only a dozen years removed from their quarrels with the British government and its supposed infringement of their rights. Ask students to determine the historical origins of the rights contained in the first ten amendments (for example, the Fourth Amendment's origins in the "writs of assistance").

2. Ask students to select from a newspaper or magazine an article involving contemporary applications of the Bill of Rights and report to the class on their findings.

3. Ask students to suggest examples of cases that would be heard first in a federal district court and explain why.

4. Ask students to select from newspapers or magazines examples of actions taken by departments of the federal executive. They should explain how these actions are related, if at all, to their interests and to the purposes of republican government.

5. To reinforce student knowledge of actions taken by the first Congress, you may wish to have them complete the following exercise. Students should put a "Y" by a statement if it was an act taken by the first Congress and an "N" if it was not.

   a. Proposed ten amendments to the Constitution.
   b. Organized the federal court system.
   c. Created the electoral college system of selecting presidents.
   d. Established executive departments.
   e. Legalized right of judicial review by federal courts.
   f. Created the position of Attorney General.

6. To help students gain an increased understanding of the functioning of the executive branch and of its growth, you may wish to have them complete the following activity.

   For this activity, the class should be divided into groups of from three to five students. Then use the following procedure.

   a. Distribute the "Student Handout" at the end of the lesson.

b. Ask each group to rank, in order of importance, each of the executive departments, both in terms of its relationship to the purposes of government as stated in the Preamble to the Constitution, and in terms of their own values. They should then record the rankings on the handout.

c. Next, provide students with the year the department was actually established and have them record it: State (1789), Treasury (1789),* Interior (1849), Justice (1870), Agriculture (1889), Commerce (1903), Labor (1913), Defense (1947)**, Housing and Urban Development (1965), Transportation (1967), Energy (1977), Health and Human Services (1979)***, and Education (1979).

d. Have students assign a ranking to each department based on establishment date. The Departments of State and Treasury would be 1; the Departments of Health and Human Services and Education would be 11.

e. After students have identified how the two rankings differ, ask them to develop hypotheses about why.

f. Discuss the hypotheses as a class. Answers should focus on the idea that society's needs and values change over time. Government reflects these changes.

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*The post of Attorney General and also Postmaster General were set up in 1789.

**Includes the former Departments of War (1789) and Navy (1798)

***Formed from the former Department of Health, Education, and Welfare

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STUDENT HANDOUT IV

Preamble to the Constituton

We the People of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

Executive Departments

Rank by Year Established	Rank by Order of Importance	Department	Policy Area
		Agriculture	Farm production and prices, agricultural research
		Commerce	Business, patents and trademarks, federal census, weather forecasts
		Defense	Armed forces of the U.S., research & development of military technology, civil defense
		Education	Education at all levels
		Energy	Energy conservation, energy production & use, energy research & development
		Health and Human Services	Public health, public welfare, Social Security & Medicare
		Housing and Urban Development	Cities, fair housing & urban planning
		Interior	Public lands, National Park Service, conservation, Indian reservations & island territories
		Justice	Federal laws, FBI, federal penal institutions
		Labor	Workers, labor laws, the employment service, unemployment compensation
		State	Foreign policy, treaties, passports, protection of U.S. interests abroad
		Transportation	Highways, railroads, aviation, mass transit
		Treasury	Taxes (IRS), government accounts, coinage, fiscal & monetary policies, counterfeiting

Lesson 20

What caused the rise of political parties?

LESSON OVERVIEW

In this lesson, students learn that the Framers were opposed to political parties, which they believed were factions concerned with selfish interests at the expense of the common welfare. Disagreements soon arose, however, between the Federalists, who were followers of Alexander Hamilton, and the Republicans, whose leader was Thomas Jefferson. These disagreements were over how the "necessary and proper" and "general welfare" clauses of the Constitution were to be interpreted. This dispute reflected the fundamental division between the two groups on how much power had been delegated to the federal government under the Constitution. Other issues separating the groups involved questions of foreign policy and the Alien and Sedition Acts. Students will learn that by 1800, two identifiable political parties had emerged. They will also examine the role of political parties in American politics today.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to explain why the Framers opposed the development of political parties.

2. Students should be able to explain the basis of the disagreement between the Federalists and the Republicans over the interpretation of the Constitution, and the relationship of this disagreement to the emergence of political parties.

3. Students should be able to explain the arguments between Jefferson and Hamilton over the establishment of the Bank of the United States, foreign relations, and the Alien and Sedition Acts.

4. Students should be able to explain the significance of the presidential election of 1800 and the reasons for the demise of the Federalist Party after the War of 1812.

5. Students should be able to explain the role of political parties today.

TEACHING PROCEDURES

A. Reading and Discussion:
Understanding the Framers' objections to political parties

Explain to the class that in this lesson they will be reading about the following historical events: the chartering of the Bank of the United States, the first important controversy over foreign relations, the Alien and Sedition Acts, the Virginia and Kentucky resolutions, and the elections of 1796 and 1800. Tell them that some of these events raised important questions about the powers the Constitution delegated to the federal government, and that the debate over these issues helped shape the development of political parties.

Students should next be asked to read "Why the Framers were against political parties." Make sure students understand the basis for the Framers' resistance to political parties and the relationship of that resistance to their views of the purpose of republican government.

B. Reading, Discussion, and Oral Reports:
Understanding the problems raised by the "necessary and proper" and the "general welfare" clauses for the principle of limited government

Have students read from "Conflicting ideas lead to the development of political parties" up to, but not including, "Conflicts between the Federalists and the Republicans." To help them understand the issues raised in these readings, ask students individually or in small groups to answer the questions included in the "Problem-Solving" activity. Then help students understand why the Framers included these clauses in the Constitution and the problems raised by the clauses for the principle of limited government.

C. Reading and Class Activity:
Understanding the conflicts between the Federalists and Republicans

Have students read "Conflicts between the Federalists and the Republicans." Be sure students understand the conflict over the interpretation of the Constitution by asking them to consider the implications of the differing views of Hamilton and Jefferson on the necessary and proper clause. Ask them to relate these views to Hamilton's and Jefferson's differing ideas about the proper role of the federal government.

D. Reading and Discussion:
Understanding the role of political parties

Have students read the remaining sections of the lesson. Help them to understand the significance of the election of 1800, the demise of the Federalist Party, and the functions of political parties today.

E. Concluding Activity

Conclude the lesson by leading a discussion of the questions included in "Reviewing and using the lesson."

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. The following exercise may be used to help clarify students' understanding of the issues dividing the Federalists and the Republicans. Write the following questions on the board.

   a. Did the federal government have the power to charter a national bank?
   b. Should the United States have aided the English or the French in the wars resulting from the French Revolution?
   c. Were the Alien and Sedition Acts a proper use of federal power?
   d. Were the Virginia and Kentucky resolutions a valid response to the Alien and Sedition Acts?

For each question, ask the class to respond as a Federalist or Republican might have responded. Tell students that they must cite reasons for their answers.

2. Have the students complete the matching assignment below as another method of learning the differences between the first two political parties in America. Put an "F" if the statement is a Federalist position and an "R" if it is a Republican viewpoint.

   a. Believed strongly in strong local governments, as opposed to a strong national government.
   b. Believed that the "necessary and proper" clause permitted the chartering of a national bank.
   c. Favored supporting the English in the European wars.
   d. Believed that states could declare national laws unconstitutional.
   e. Wanted to limit the powers of Congress through a very strict interpretation of the "necessary and proper" clause.
   f. Supported the Alien and Sedition Acts.

Key: (a)R (b)F (c)F (d)R (e)R (f)F

3. Have students make a chronological chart showing the evolution of American political parties, 1789-1860.

4. Have students look up minor parties in American history and describe their policies and influence.

5. Assign the class to read *Federalist 10* and to summarize and discuss the argument it contains. Ask them how this argument is related to the question of political parties.

6. Have students get copies of the Republican and Democratic Party platforms from a recent election. Ask them to read them and discuss whether these platforms confirm the Framers' view that political parties were simply factions pursuing their own interests rather than the common welfare.

What is judicial review and why is it controversial?

LESSON OVERVIEW

This lesson deals with the power of the United States Supreme Court to exercise judicial review over the actions of state legislatures and the other two branches of the federal government. Throughout our history, there have been great differences of opinion about whether the judicial branch should have this power and how it should be used. The controversy raises basic questions about representative government and majority rule, on the one hand, and constitutional government and the protection of basic rights and unpopular minorities, on the other. In an introductory problem-solving segment of the lesson students are asked to make a decision concerning whether the Court should be given the power of judicial review, basing their choice on the consequences of the two alternatives.

The lesson then turns to the famous case of *Marbury v. Madison* and traces Chief Justice John Marshall's reasoning in claiming the power of review for the Supreme Court. The lesson concludes with an explanation of Marshall's position on the function of judicial review in a constitutional democracy.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to explain the differing arguments on whether the Supreme Court should have the power of judicial review.

2. Students should be able to explain the relationship of judicial review to representative democracy and constitutional government.

3. Students should be able to describe how Chief Justice Marshall claimed the power of judicial review for the Supreme Court in the case of *Marbury v. Madison* and explain his argument.

TEACHING PROCEDURES

A. Reading, Group Activity, and Debate: Understanding the issues raised by the practice of judicial review

Introduce the lesson by asking the class to recall any cases they have heard about in which a court declared a legislative act unconstitutional. Explain to the students that they will be reading about judicial review, a fundamental power of the Court, and how the Court acquired that power.

Ask students to read the introductory section, "Should the Supreme Court have the power to declare acts of the President and Congress unconstitutional?" Make sure the students understand what judicial review means. Then divide the class into groups of three to five students each to complete the "Problem solving" exercise. Lead students in a discussion of their responses to the questions contained in the exercise.

If you wish, you may have students take and debate opposing positions on the issue contained in the "Problem solving" exercise.

B. Reading and Discussion:
Understanding the origins of judicial review

Have students read "How did the Supreme Court get the power of judicial review?" and "Judicial review under British and state governments." Students should understand that although the Constitution does not explicitly give the Court the power of judicial review, the Founders believed that some part of the government should be given such power to decide whether other parts of government had violated the higher law.

C. Reading and Discussion:
Understanding how the Supreme Court was given the power of judicial review over state governments

Have the students read "The Supreme Court gains the power of judicial review over state governments." Discuss with students how the supremacy clause and the Judiciary Act of 1789 made clear the authority of the Court to declare actions of state governments invalid under the Constitution. They should also know that the Supreme Court first used this power over a state government in 1796.

D. Reading and Discussion:
Understanding how the Supreme Court gained the power of judicial review over the other branches of the federal government

Have students read from "The Supreme Court establishes its power of judical review over Congress" up to, but not including, "The Supreme Court as the guardian of the people's Constitution." Remind students how the question of judicial review over acts of the federal government was discussed during the Philadelphia Convention. They should understand that while the Constitution does not explicitly give the Court this authority, many of the Framers supported the idea. It was not until 1803 in the case of *Marbury v. Madison* that the Court explicitly claimed this authority. Lead them in an analysis and discussion of the *Marbury* case and make sure they understand the basic facts, decision, and reasoning of the opinion. (Directions for a moot court hearing on the case are included in the following section on optional activities.)

E. Reading and Discussion:
Understanding Marshall's position on the role of the Supreme Court

Have students read "The Supreme Court as the guardian of the people's Constitution." Lead them in an analysis of Marshall's position and in a discussion of whether they agree or disagree with it.

F. Concluding Activity

Conclude the lesson by leading a discussion of the questions included in "Reviewing and using the lesson."

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Have students read a detailed account of the *Marbury* case in a biography of Marshall. They should report to the class on the arguments presented to the Court which were rejected by Marshall.

2. Students may read a biography of Jefferson or a collection of his letters to learn about his reaction to the decision in the *Marbury* case.

3. Select three students, one to research each of the following cases: *Fletcher v. Peck,* 6 Cranch 87 (1810); *Dartmouth College v. Woodward,* 4 Wheaton 518 (1819); and *Gibbons v. Ogden,* 9 Wheaton 1 (1824). Each student should report the facts of the case to which he or she has been assigned, the decision, and the significance of the decision to contemporary events.

4. The following moot court activity is designed to help students understand the basic issues and importance of the case of *Marbury v. Madison*. The procedure is as follows.

Step 1 - Reviewing the facts in the case.

A. Have students read the section "The case of *Marbury v. Madison*" in the text. Have them read to the end of the fifth paragraph.

B. Ask them to recite the facts in the case. Record their responses on the board.

C. When the recitation of facts is concluded, ask the following questions, which will help the students distinguish the important facts: (l) Who are the parties involved? (2) Which facts occurred that led to a legal suit? (3) Which facts might not be important to the case?

Step 2 - Clarifying the issues in the case.

A. List on the board the three major issues in *Marbury v. Madison* as presented in the student text.

B. Discuss each issue to ensure the class understands the key questions raised by the facts in the case.

Step 3 - Preparation of the arguments in the case.

A. Divide the class into three groups. One group will role play the part of judges, the second group the part of Marbury, and the third group the part of Madison.

B. Instruct the Marbury and Madison groups to prepare arguments which will answer the issues you listed earlier on the board.

C. Instruct the judges' group to prepare questions which they can ask of the other two groups. These questions should help the judges clarify the arguments to be made during the presentation portion of the activity.

D. Tell the class that every student will individually have a part to play in the next phase of the role play. During the preparation period, you may wish to spend some time with each group to assist students with the structuring of their arguments or questions.

Step 4 - Presenting oral arguments.

A. Restructure the class into groups of three students each. One student from each of the groups in Step 3 will be in the newly reconstituted groups. The class will be organized into multiple groups of three students. All groups will be presenting their cases simultaneously.

B. The student from the Marbury group will present his/her argument to the judge first. Then, the student from the Madison group will give his/her presentation. The judge may interrupt the presenter to clarify points in the arguments.

C. When the judges have heard arguments from both parties, they will be called upon to make a decision in the case.

Step 5 - The decision in the case.

A. Call on each of the judges to announce his/her ruling, and record the responses on the board. Each judge should explain the reasoning behind his/her decision.

B. Conclude the activity by referring the students to Chief Justice Marshall's decision in the case. Discuss Marshall's reasoning in the Supreme Court decision.

Why are there continuing controversies over the interpretation of the Constitution?

LESSON OVERVIEW

This lesson expands understanding of the concept of judicial review by emphasizing the application of the concept in contemporary settings. Although most Americans today agree that judicial review is a necessary power of the Supreme Court, many do not agree on how the Court should exercise that power. Supreme Court rulings have often had far-reaching social and political consequences and have been quite controversial. The controversy may center on the content of the decision itself or on the methods by which the Court reached the decision.

In this lesson students will examine differing opinions on how best to interpret the meaning of the Constitution. Some judicial theorists believe that court decisions should be restricted by the literal meaning of the words in the Constitution; some say interpretation should be derived from an examination of the intent of the Framers; others say interpretation should involve the application of basic constitutional values and principles in the light of history and contemporary social conditions.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to explain the various methods of constitutional interpretation that influence the way the Supreme Court arrives at a decision in a case and the arguments for and against each of them.

2. Students should be able to explain the variety of factors that may influence the justices' opinions.

TEACHING PROCEDURES

A. Reading and Group Activity: Understanding the problem of interpreting the Constitution

Ask students to read the "Purpose of Lesson 22" and the section, "The problem of interpreting the Constitution." Discuss the necessity for assigning meaning to the words in the Constitution. Ask students for examples of words or phrases where the meaning of the Constitution is precise. Next, ask for examples of phrases which might call for interpretation, such as "establishment of religion," "equal protection of the laws," and "general welfare."

Divide the class into groups of three to five students each, and assign each group the task of developing a report on one of the three positions contained in the text on the proper means of interpreting the Constitution. Each group should explain the position it has been assigned to the rest of the class and present the arguments for and against it. The class may then discuss and evaluate the strengths and weaknesses of the arguments for the three positions. You may also ask students to identify current issues which involve differing positions on these means of interpreting the Constitution.

B. Reading and Discussion: Understanding other influences on interpreting the Constitution

Have students read "Judicial review in practice." Discuss with the students the various factors which influence a justice's interpretation of the Constitution. Students should realize that while the personal preferences of the justices frequently affect their decisions, most people believe that the continued authority of the Court depends on its being faithful to both the language and spirit of the Constitution.

C. Concluding Activity

Have students discuss the questions and quotations contained in "Reviewing and using the lesson" to further their understanding of the perpetual conflicts over the power of judicial review.

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Have students research how a case gets before the Supreme Court and how the Court handles the cases it chooses to hear.

2. Ask students to write an essay in which they compare and contrast the attitudes toward the power of the Court expressed by the quotations below.

> "...the opinion which gives to the judges the right to decide what laws are constitutional, and what not...would make the Judiciary a despotic branch." (Thomas Jefferson)

> "...the judiciary, from the nature of its functions, will always be the least dangerous....It may truly be said to have neither Force nor Will, but merely judgement....A constitution is, in fact, and must be regarded by the judges, as a fundamental law. It therefore belongs to them to ascertain its meaning..." (Alexander Hamilton, *The Federalist*, No. 78, 1788)

3. Ask students to look up in newspapers and magazines, (and, if available, law review articles as indexed in the *Index to Legal Periodicals*), different arguments about how the Constitution should be interpreted and use these arguments as the basis for a class discussion.

How has power been delegated to the federal and state governments?

LESSON OVERVIEW

This lesson is intended to help students understand the federal system of government created by the Constitution. They learn that the Preamble to the Constitution makes it clear that, under our system, sovereignty belongs to the people and that the people delegate authority to both the federal and state governments. This system, known as federalism, is contrasted with unitary and confederate systems. The students also learn that the supremacy clause of Article VI of the Constitution declares that in case of conflict, the laws made under the authority of the Constitution are superior to state laws.

The case of *McCulloch v. Maryland* is used to illustrate how the Court upheld the supremacy of the federal government within its sphere of authority and thereby greatly increased the powers of Congress under the "necessary and proper clause." The lesson concludes by having students think about the expanding role of the federal government today.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to describe the source of federal and state power.

2. Students should be able to explain the differences between federal, unitary, and confederate forms of government.

3. Students should be able to explain the importance of *McCulloch v. Maryland* and its main arguments.

4. Students should be able to discuss how and why the power of the federal government has expanded.

TEACHING PROCEDURES

A. Reading and Class Activity: Understanding sovereignty

Write the following statement on the board: "Sovereignty in the United States resides with the people." Using the Preamble and the Declaration of Independence at the back of the student text, ask the students to explain this statement. Discuss their ideas.

B. Reading and Class Activity: Understanding how a federal system differs from other kinds of systems

Ask the students to read "How is the system of government created by the Framers different from others?" and "Other kinds of governments" in the student text. Write "federal system," "unitary system," and "confederation" on the board. Read the following statements and ask the class to select the system of government which best describes each.

1. A central government exercises its authority through the state governments, not on the people directly. (confederation)

2. A dual system of government, each supreme in its own sphere of authority. (federal system)

3. The central government appoints or elects local and provincial officials. (unitary system)

4. The central government is delegated powers by a written constitution; other powers are retained by the states. (federal system)

5. The central government depends upon the states to carry out, or execute, its laws. (confederation)

Discuss student responses and ask them to identify contemporary governments in the world which illustrate each of the above systems.

C. Reading and Discussion:
Understanding the meaning of the supremacy clause and the conflict between federal and state power

Have students read "The supremacy of the federal government" and "Federalism and the supremacy clause." Review with students the meaning of the supremacy clause and its significance for the federal system.

D. Reading and Discussion:
Understanding the significance of *McCulloch v. Maryland*

Have students read "Conflict between federal and state power." Make sure students understand the facts in the case and the two key issues which it presented to the Supreme Court. Discuss with the class the arguments Marshall made, on the basis of the necessary and proper clause, in upholding the power of Congress to create a bank. Also, help them understand Marshall's denial, on the basis of the supremacy clause, of the power of the state of Maryland to levy a tax on the federal bank. You may wish to ask students what arguments they might make for and against Marshall's decision.

E. Reading and Discussion:
Understanding factors which have increased the power of the federal government

Have students read "The power of the federal government today." Explore with students the various factors which have increased the power of the federal government. Discuss with students the question of whether most laws that affect them are federal or state laws.

F. Concluding Activity

Conclude the lesson by leading a discussion of the questions contained in "Reviewing and using the lesson."

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Select several students to interview your school's principal, or a member of the school board, to get his or her views on the pros and cons of federal programs in education.

2. Have students consult with school administrators and teachers and compile a list of federal education programs which affect your school.

3. This lesson states that most laws that affect us directly are state laws. Have students compile lists of federal and state laws that support or contradict this statement.

4. Class Activity: Understanding the advantages and disadvantages of different systems of government.

Divide the class into groups of three students each. Distribute the student handout at the end of this lesson and ask students to read and follow the instructions. When they have concluded their discussions, ask each group to report its decision to the class and give reasons for how the group solved the problem.

UNIT OPTIONAL ACTIVITY: Practicing for a competition hearing

Form a team of five to seven students and ask them to prepare a four-minute presentation on the following topical question and to be prepared to answer the sub-questions which follow it. Then, have the group make its presentation to the rest of the class which will serve as a simulated congressional committee. After the presentation, the members of the committee should ask the follow-up questions provided below and any other questions relevant to the topical question or the unit as a whole. One student from the congressional committee should be selected to chair the proceedings.

Topical question

What do you believe has been the most important development in the American system of constitutional government over the past two hundred years? Why?

Follow-up questions

1. At the time of the adoption of the Bill of Rights, why did most people think that it should apply only to the actions of the federal government?

2. How can judicial review be justified in terms of representative democracy? Explain your answer.

3. Explain the meaning of the "necessary and proper" clause and the controversy surrounding it.

STUDENT HANDOUT V

Given what you have learned about unitary, federal, and confederate systems of government, decide which system would provide the best methods for solving the problem below. Before making your decision, develop a list of the advantages and disadvantages of using each system to solve the problem.

Problem: Community leaders across the country have expressed the desirability and necessity of establishing a public education system to prepare young people to participate in the world of work, to receive higher education, and to participate in the democratic system of government. It would further be desirable if this education could be made available to all citizens without direct cost to the participants.

The problem, however, is that the community leaders cannot agree on several points. Which system of government would be better able to pay the high cost of the project? Which system would be best for determining the subjects to be taught? Which system would be best for determining who should do the teaching and what methods of instruction they should use? Which system would be best for selecting the books and materials to be used?

Unitary System		Federal System		Confederate System	
adv	disadv	adv	disadv	adv	disadv

We have decided to solve the problem in the following way:____________________________________

____

____

Unit Five

Fundamental Rights

This unit focuses on certain protections of basic rights provided by the Constitution. It is pointed out that, generally speaking, these rights have been expanded over the past two hundred years, and progress has been made in closing the gap between the ideals set forth in the Declaration of Independence and Constitution and the realities of life in the United States. After studying the use of the "equal protection clause" of the Fourteenth Amendment in eliminating legalized discrimination against minorities, students learn about the extension of the franchise to those groups who were hitherto excluded. They learn that this extension has been accomplished by a combination of constitutional amendment, judicial decision, and legislative enactments at both the state and federal levels.

The text then turns to a discussion of due process. Students learn first about substantive due process and how it was used initially by the Supreme Court to protect various economic interests. They also learn how most of the protections of the Bill of Rights have been applied to the states through the process of "incorporation," and how the Supreme Court has shifted from using the due process clauses of the Fifth and the Fourteenth Amendments for the protection of economic rights to using them for the protection of various civil liberties. Students then learn about the protections of procedural due process, particularly as they relate to criminal procedures. In addition to learning about the protections offered by various provisions of the Constitution and the Bill of Rights, they learn why the Founders thought these protections were important and how they were related to the basic values of natural rights, republicanism, and constitutionalism.

Finally, the unit deals with the First Amendment. Students first study the history of church and state relations in the United States, and learn about the gradual emergence of religious tolerance and the widely-held view that separation between church and state is desirable, both for the integrity of religion and the proper functioning of the state. They also are introduced to some of the problems and controversies over the clauses relating to religion of the First Amendment, especially as they concern religion and the schools. The last lesson of the unit deals with the First Amendment's guarantee of the right of free speech, the basic arguments for the right as one of the most fundamental rights in a constitutional democracy, and the way in which these protections have been applied to a particular category of speech: seditious speech.

The discussion of both religion and speech emphasizes why the Founders thought that their protection by the Constitution and the Bill of Rights was especially important, and relates that view to their experience, their understanding of history, and to their basic political and religious values.

Objectives

1. Students should be able to describe what equal protection of the law means, how this concept is related to the basic values of the Founders, and how it has been used to eliminate legalized discrimination against various minorities.

2. Students should be able to describe how the right to vote has been expanded and why this is important.

3. Students should be able to describe the difference between procedural and substantive due process and why due process is important in a constitutional democracy.

4. Students should be able to describe some of the important events in the development of church-state relations in the United States, why the Founders thought that religious freedom was important, and some of the controversies and problems in applying the clauses relating to religion of the First Amendment to actual situations, especially in public schools.

5. Students should be able to describe the importance of freedom of expression, both to the individual and to the preservation of constitutional democracy. They should also be able to explain the reasoning behind the argument that it is sometimes reasonable to impose certain kinds of limitations on expression.

Lesson 24

How does the Constitution promote equal protection of the laws?

LESSON OVERVIEW

Although the Thirteenth, Fourteenth, and Fifteenth Amendments were ratified in 1865, 1868, and 1870 respectively, intense disputes over the meaning and purpose of the Fourteenth Amendment continue. It has had a significant effect on federal and state relationships and on the present social, economic, and political climate of the nation. This lesson focuses upon the equal protection clause of the Amendment and the changing interpretations of its meaning.

Students learn about the "separate but equal" doctrine as enunciated in Plessy v. Ferguson in 1896, and compare the Plessy decision with the Supreme Court's 1954 ruling in the landmark case, Brown v. Board of Education.

The lesson concludes with a discussion of how Congress and the courts have continued to try to end discrimination, particularly in the areas of voting, education, housing, and employment.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to explain the purposes of the Civil War Amendments and, in particular, the equal protection clause of the Fourteenth Amendment.

2. Students should be able to compare and contrast 19th century Supreme Court interpretations of the equal protection clause of the Fourteenth Amendment with interpretations handed down since the 1950s.

3. Students should be able to describe the national movement to end unfair discrimination in education, housing, employment, and voting.

4. Students should be able to describe other types of discrimination issues raised by the equal protection clause.

TEACHING PROCEDURES

A. Problem-Solving and Class Activity: Examining issues of discrimination

Begin the lesson by asking students to read and discuss the problem-solving activity, "Examining examples of discrimination." Ask them to take and defend positions on whether they think the types of situations contained in the exercise should be considered unconstitutional under the equal protection clause of the Fourteenth Amendment. You might then ask students if they know which of these practices have been declared unconstitutional and which have not. Conclude by discussing with students the importance to them of the right to equal protection of the laws.

B. Reading and Discussion: Understanding the Civil War Amendments and the equal protection clause

Have students read "The Civil War Amendments" and "The equal protection clause." Make certain students know what the Civil War Amendments are and what their purposes were. Particular emphasis should be placed upon the equal protection clause of the Fourteenth Amendment which is the subject of this lesson.

C. Reading and Panel Discussion or Debate: Understanding the changing interpretations of the equal protection clause

Have students read "Changing interpretations of the meaning of equal protection of the laws." Lead students in a discussion of the *Plessy* and *Brown* cases and the changed social, economic and political conditions that may have influenced the Supreme Court's decision in the latter case.

As an alternative method, you may wish to select two small groups of three or four students to engage in a panel discussion or debate. One group should read the *Plessy* decision and prepare to defend "separate but equal" as a viable doctrine; the second group should challenge the "separate but equal doctrine" using arguments in the *Brown* case.

D. Reading and Discussion: Understanding the role of the executive and Congress in providing the equal protection of the laws

Have students read "The President orders federal troops to enforce the law" and "The national movement to end unfair discrimination." Review with students President Eisenhower's action in ordering federal troops to Little Rock to enforce the decision of the Supreme Court. Lead them in a discussion of how it could be argued that this action by the President was required by the Constitution.

Finally, discuss with students the ways in which Congress has responded to pressure from the public to end unfair discrimination. Students should realize that while the role of the Court has been significant, the roles of Congress and the president are equally important in ending unfair discrimination.

E. Reading and Discussion: Understanding continuing problems of equal protection

Have students read "Continuing disagreements over equal protection of the laws." To help them understand some of the issues involved in the controversy, initiate a class discussion on the issue of whether private clubs or organizations should be permitted to discriminate in their membership policies against racial minorities and/or women.

In this situation, the right to the equal protection of the laws may be in conflict with the right to freedom of association. You may want to focus on this issue as an example of the continuing controversy over the application of the equal protection clause.

F. Concluding Activity

Conclude the lesson by leading a discussion of the questions in "Reviewing and using the lesson."

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Have students develop a timeline illustrating the major events in the evolution of civil rights legislation since the Civil War.

2. Have students do research on particular court cases of recent vintage which involve discrimination and/or affirmative action programs. One important example is the Supreme Court's recent unanimous decision permitting California to require the Rotary Club to admit women to membership. *Board of Directors of Rotary International v. Rotary Club of Duarte*, 55 U.S.L.W. 4606 (May, 1987).

3. Have students read the *Brown* decision and the commentary on it in *An American Primer*, edited by Daniel Boorstin. Students should report to the class the evidence and reasoning which led the Supreme Court to state that "separate educational facilities are inherently unequal..." Students may be asked to research the findings of Kenneth Clark's studies on the effects of segregation on children.

4. Select two groups of students to debate: "Resolved: that affirmative action programs violate civil rights acts which prohibit racial and sexual discrimination." Define "affirmative action" (see Glossary) and discuss its intended purpose. Here the issue presented by affirmative action programs may be stated: Does society's aim to remedy the effects of past discrimination and provide greater opportunities for minorities today, justify government actions which on their face appear to discriminate against other citizens?

To facilitate debate here are some facts on an actual case: *Regents of University of California v. Bakke*, 438 U.S. 265 (1978).

(You may also wish to have students review other cases or materials as they prepare for this activity.)

> Allan Bakke, a white male, twice applied for admission to the medical school of the University of California at Davis. Despite strong "bench marks" (interviewers' summaries, overall grade point average, grades in science courses, high standard test scores, and extracurricular activities), he was rejected. The medical school at Davis had two admissions programs for its entering class of 100, the regular and the special admissions program. The special admissions program set aside 16 seats in each class for various minority groups ("Blacks, "Chicanos," "Asians," and "American Indians") who did not compete for the other 84 openings and were not required to meet the grade point average of regular (nonminority) applicants. Bakke's overall scores were significantly higher than the special applicants. He claimed that he was discriminated against because of his race. He brought suit claiming that the Davis "quota system" violated the California Constitution, the equal protection clause of the 14th Amendment, and Title VI of the Civil Rights Act of 1964. The Supreme Court of California upheld Bakke and the University appealed to the United States Supreme Court.
>
> The decision: by a 5 to 4 vote, the Court held that Bakke was entitled to admission. Four justices said that the program violated Title VI of the Civil Rights Act, and they were joined by Justice Powell, who concluded that the Davis quota was a denial of Bakke's rights under the equal protection clause. Four other justices argued that the Davis quota was valid because it was a reasonable remedy for society's past discrimination against minorities. In the future, the Court said, race may be used as one factor to be considered, among others, in a state university's admissions policy for the purpose of promoting diversity in its student body.

How has the right to vote expanded since the adoption of the Constitution?

LESSON OVERVIEW

This lesson focuses on suffrage and how it has expanded steadily since 1789. The expansion has been so great, in fact, that further extension is no longer a serious issue. Rather, the focus in the United States is upon upgrading the quality and quantity of participation of those who already have the right to vote. It has been argued that not enough people who are eligible to vote do so; and not enough voters are informed or sufficiently skilled to make good decisions.

At its root, the conflict over the right to vote has been between those who believed in the classical principle of republicanism and those who favored a broader interpretation of representative democracy. It has had to do with the question of who can best protect natural rights and the common welfare. As each new group--white males without property, white males without the "proper" religious affiliation, blacks, American Indians, females--have fought for voting rights, they have had to make the case that they needed the vote to protect their basic rights.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to provide an account of the history of the expansion of suffrage in the United States.

2. Students should be able to explain ways in which suffrage was denied to various groups in the past.

3. Students should be able to describe general voting requirements today.

4. Students should be able to describe how the extension of the right to vote is related to some of the fundamental ideals and principles of our constitutional government.

TEACHING PROCEDURES

A. Reading and Discussion: Understanding why the Constitution left voting requirements to the states, and the extension of the right to vote to all white males

Have students read "The Constitution and the right to vote" and "From the Founding to the Civil War--Extending the right to vote to all white males." Help students understand how the right to vote was extended to all white males by the time of the Civil War. Make sure students understand why the Constitution leaves voting qualifications to the states.

Discuss with students the gradual extension of the right to vote from 1787 to 1856. You might want to explore with them the reasons for the elimination of property and religious restrictions on voting.

B. Reading and Discussion: Understanding the extension of the vote to black males

Have students read "From the Civil War to present times-- Extending the right to vote to black males." Discuss with students the Fifteenth Amendment and the devices used by many states to evade the intent of this amendment. Then, help them understand the actions taken by Congress and the Supreme Court from 1915 through the 1960s which made the evasive tactics of the states unconstitutional and/or illegal.

C. Reading and Discussion:
Understanding the extension of the vote to women and eighteen-year-olds

Have students read "Extending the right to vote to women" and "Extending the right to vote to eighteen-year-olds." Students should understand that over half of the states had given women the right to vote by the end of World War I. They should also learn that the right to vote was guaranteed for all women by the 19th Amendment in 1920. Finally, students should understand how the right to vote was extended to eighteen-year-olds.

D. Class Activity:
Constructing a time line on the extension of suffrage

Ask students to develop a time line showing the extension of voting rights to each of the groups mentioned in the text. Then have them explain how each group acquired the right.

E. Reading and Discussion:
Understanding contemporary voting requirements

Have students read "Voter requirements today." They should understand that while almost every citizen in the United States today has the right to vote, states may pass some laws restricting this right. They should discuss these laws and the reasons that may be used to support them.

F. Concluding Activity

Conclude the lesson by leading a discussion of the questions contained in "Reviewing and using the lesson." Discuss with the students whether they think important problems are created for our democracy by people who do not vote and by people who do vote but who are not well-informed.

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Ask students to do research on literacy tests, poll taxes, and grandfather clauses in the Reconstruction era.

2. Ask students to do research to discover the percentage of white males over 21 who could vote in the 1790s. They may also be asked to determine how many white males actually voted at that time.

3. Have students look up their state's restrictions on the right to vote and report to the class.

4. Have students complete the following exercise.

Restriction	**How Ended**
1. Property Qualifications	a. States' actions
2. Men Only	b. 14th Amendment
3. Whites Only	c. 15th Amendment
4. Poll Tax	d. 19th Amendment
5. Literacy Test	e. 24th Amendment
6. 21-Year-Olds	f. 26th Amendment
	g. Supreme Court decisions

(Combinations of answers may be used--with explanation.)
Key: (1)a (2)d,a (3)c (4)e,g (5)g (6)f,a

Lesson 26

What is due process of law?

LESSON OVERVIEW

This lesson deals with the "due process" clause of the Fourteenth Amendment. This clause is considered one of the most important in the Constitution because it is the basis of many Supreme Court decisions limiting the authority of both federal and state governments in order to protect the basic rights of the people. Students learn the difference between substantive and procedural due process. This lesson is about substantive due process. Procedural due process will be dealt with in Lesson 27.

The student will learn how the Supreme Court used the idea of substantive due process from the 1880s to the 1930s. During this period, the Court used this idea to invalidate laws it believed violated property rights. By the 1930s, however, the Supreme Court's emphasis shifted from using the due process clause to protect "property" rights to using it to protect "liberty." It did this by the process known as incorporation, that is, the interpretation of the due process clause of the Fourteenth Amendment to include specific provisions of the Bill of Rights and thus limit state governments' intrusions upon those rights.

LESSON OBJECTIVES

At the conclusion of the lesson:

1. Students should be able to define substantive due process.

2. Students should be able to describe how the Supreme Court originally used the principle of substantive due process to protect "property" rights and later shifted its emphasis to protect "liberty" rights.

3. Students should be able to describe how the courts used judicial interpretation to "incorporate" the Bill of Rights into the Fourteenth Amendment.

4. Students should be able to apply the principle of substantive due process to hypothetical situations.

TEACHING PROCEDURES

A. Reading and Discussion:
Understanding definitions of substantive and procedural due process

Introduce the due process clause by writing on the board "nor shall any State deprive any person of life, liberty, or property, without due process of law." Have students consider the meaning of these words. How does the due process clause in the Fourteenth Amendment differ from the due process clause in the Fifth Amendment?

Next, ask students to read the introductory paragraph and the sections "Due Process and the Fourteenth Amendment" and "What is due process of law?" Help the students to clarify their understanding of due process and of the difference between substantive and procedural due process.

B. Reading and Discussion:
Understanding the history of the use of substantive due process to protect property rights

Have students read "Due process and the protection of property rights." Discuss with students the differing notions of "reasonableness" and "fairness" and why these terms are difficult to define. In the text, what did "fairness" mean to the factory owners? What did it mean to the factory workers?

C. Reading and Group Activity:
Examining the question of who should determine what is reasonable and fair

Have students read "Which should decide what is fair--the courts or the legislatures?" Divide students into groups of three to five and ask them to complete the problem-solving exercise, "What is fair and reasonable?" Have the groups report their answers to the class for further discussion.

D. Reading and Discussion:
Understanding the extension of the Bill of Rights to the states

Have students read "Due process and the protection of liberty" and "What rights should be protected?" Be sure students understand the process of incorporation of the Bill of Rights under the due process clause of the Fourteenth Amendment. Then discuss with students some of the questions raised in the text regarding the difficulties of applying the protections of the Bill of Rights.

E. Reading and Problem Solving:
Understanding substantive due process

To give students an increased understanding of some of the kinds of issues that may be raised under the substantive due process clause of the Fourteenth Amendment, have them complete the following exercise.

Divide the class into groups of three to five students. Distribute Student Handout VI . Instruct students to discuss each situation in the handout and determine whether they think it should be considered a violation of the substantive due process requirement that laws be "reasonable" and "fair."

Discuss student responses and the reasons they give supporting them.

F. Concluding Activity

Conclude the lesson by leading a discussion of the questions contained in "Reviewing and using the lesson."

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Have students do research on one of the following cases:

Lochner v. New York, 198 U.S. 45 (1905)
Gitlow v. New York, 268 U.S. 652 (1925)
Pierce v. Society of Sisters, 268 U.S. 510 (1925)
Tinker v. Des Moines, 393 U.S. 503 (1969)

Students should examine the facts, issues, holdings, and reasoning in the case and report their findings to the class.

2. Conduct a moot court using any one of the above cases.

3. Have students research and report on the controversy over "Miranda rights." *Miranda v. Arizona*, 384 U.S. 436 (1966)

STUDENT HANDOUT VI

Substantive Due Process

Each of the following situations involves a question of substantive due process. If you believe it represents an unfair or unreasonable use of law or regulation and therefore not permissible, enter an "N" in the blank. If you believe the law or regulation is permissible, place a "P" in the blank. Be prepared to explain your reasoning.

1._______A state passes a law prohibiting the hiring of persons with red hair from working in government offices.

2._______Congress passes a law restricting travel to foreign countries by persons suspected of advocating the overthrow of the United States government.

3._______A state passes a law which makes it illegal for schools to teach children any language other than English, except classical languages like Greek, Latin, or Hebrew.

4._______A state law requires that children of unwed fathers become wards of the state if their mother dies.

5._______A police department passes a regulation governing hair length, beard, and moustaches worn by police officers.

6._______A state law directs local police chiefs to post a notice in bars and liquor stores that identifies particular persons who, because of excessive drinking, should not be sold or served any liquor.

7._______A state law directs police departments to mail "fliers" to local merchants identifying "active shoplifters."

8._______A state law requires that a person be 18 years old to vote.

9._______A state law requires that a person be a high school graduate before being issued a driver's license.

10._______Congress passes a law drafting men into the armed forces. The law specifically excludes women from the draft.

Lesson 27

How does procedural due process protect your rights to life, liberty, and property?

LESSON OVERVIEW

This lesson deals with procedural due process. Both the federal and state governments are required by the Constitution and the Bill of Rights to use fair procedures when gathering information and making decisions regarding the lives, liberty, and property of citizens. Although this lesson focuses on the criminal justice system, the requirements of procedural due process apply in some degree to all of the branches and functions of government.

While many will agree with the idea of the use of fair procedures in the abstract, the application of those procedures to specific cases is more difficult, particularly in situations when an accused person is alleged to have committed heinous crimes. Justice Felix Frankfurter once said that America provides due process guarantees:

> not out of tenderness for the accused, but because we have reached a certain stage of civilization . . . [a civilization which], by respecting the dignity even of the least worthy citizen, raises the stature of all of us.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to explain the relationship between the Framers' inclusion of procedural protections of the individual in the Constitution and the Bill of Rights, and their ideas about the nature of constitutional government.

2. Students should be able to describe procedural due process and identify the specific procedural rights included in the Constitution and the Bill of Rights and their historical antecedents.

3. Students should be able to explain how these rights apply to the criminal justice system.

TEACHING PROCEDURES

A. Reading and Group Activity: Understanding procedural due process

Introduce the lesson by telling the students that they will be studying procedural due process, that is, the requirement that the government use fair procedures when gathering information or making decisions. In particular, this lesson will deal with procedural due process as it relates to criminal procedures used by law enforcement agencies and the courts. This involves the protection of the individual's rights to life, liberty, and property when suspected, accused, or convicted of a crime. The goal of procedural limitations on government is to make sure individuals' rights are not unfairly violated by an arbitrary government.

Be sure students understand that although the emphasis in this lesson is on criminal issues, fairness is also required of the government in civil cases and other matters as well.

Next, divide the class into seven groups and have each read "The importance of procedural due process" and the first paragraph of "What are your procedural rights and why are they important?" Then assign one of each of the seven sections of this selection to each group. Each group should then read the selection and be prepared to report to the class the protections of rights that it contains, the reasons for the protections, and the historical basis or reasons for the protections if such information is contained in that selection.

After the seven groups have reported, lead a discussion of the importance of procedural due process to the protection of the rights of the individual and its relationship to constitutional government and the concerns of the Founders.

B. Reading and Discussion: Controversies over due process and review of lesson

Have students read "Controversies over procedural due process." Be sure they understand the conflict it describes between the need to balance the protections of the individual against the needs of society.

C. Concluding Activity

Conclude the lesson by leading a discussion of the questions in "Reviewing and using the lesson."

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Arrange to have the class visit and observe procedures at a local court hearing. If possible, have the judge discuss procedures and other issues with students.

2. Assign *Gideon's Trumpet* by Anthony Lewis. This is a vivid account of the facts surrounding *Gideon v. Wainwright*, 372 U.S. 335 (1963). You may be able to get a tape of the TV movie of the book, starring Henry Fonda.

3. Assign a report on *Mapp v. Ohio*, 367 U.S. 643 (1961) or other cases centering on procedural due process issues.

4. Lead a class discussion on the topic, "Why is the right of habeas corpus sometimes considered the most fundamental of all constitutional rights?"

5. Have students complete the following matching assignment to reinforce their knowledge of procedural rights and the constitutional source of these rights.

Right

1. jury trial
2. notification of charges
3. reasonable bail
4. public trial
5. assistance of counsel
6. right to remain silent
7. no unreasonable search
8. confrontation of witnesses
9. no cruel punishment
10. one trial per offense

Source

a. 4th amendment
b. 5th amendment
c. 6th amendment
d. 8th amendment

Key: (1)c (2)c (3)d (4)c (5)c (6)b (7)a (8)c (9)d (10)b

Lesson 28

How has your right to freedom of religion been guaranteed?

LESSON OVERVIEW

In this lesson students learn that in the early years, many of the colonies, and later some of the states, gave preferential treatment to certain churches. Consequently, Americans have not always been allowed freely to practice the religion of their choice.

By the time of the ratification of the Constitution, however, there were many in the new nation who believed that the federal government, at least, should not be allowed to give preferential status to any one church. Furthermore, many thought that people have a "natural right" to believe whatever they choose. Thus, a part of the First Amendment says that "Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof;..." Students learn that there have been conflicts between these two clauses, and that legislatures may place limitations upon the exercise of religious beliefs.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to describe the history and development of religious freedom in the United States.

2. Students should be able to explain the values that led to the First Amendment's clauses on religion.

3. Students should be able to explain why there may be conflicts between the establishment clause and the free exercise of religion clause.

TEACHING PROCEDURES

A. Reading and Discussion: Understanding the history of religious intolerance and the relationship between church and state

Have students read "Religious intolerance and persecution in the early American colonies" and "The establishment of religion in the state governments" sections of the text. Students should be helped to understand the relationship between church and state from the colonial period down through 1833. Discuss with students the meaning of "establishment" and "official church," and help them to understand those developments which led to the increasing opposition to an established church.

Ask the students whether they can identify any governments in the world today in which there is an established religion. What practices might occur as a result of combining religion and government?

B. Reading and Discussion: Understanding the relationship between the Founders' religious beliefs and their belief in natural rights

Have students read "The Founders' religious beliefs promote freedom of religion." Be sure students understand the Founders' arguments regarding the proper role of religion in society.

To reinforce student understanding of the positions of the Founders, you may wish to have them complete one or both of the following two activities.

1. Ask students to describe the Founders' arguments against an established church.

2. If, as George Washington thought, free government depends on virtue and morality, and if they cannot be maintained without religion, should our federal and state governments promote and encourage religion in general, though no one religion in particular? To stimulate discussion on this issue, expose students to the following quotations.

> Believing with you that religion is a matter which lies solely between man and his God, that he owes account to none other for his faith or his worship...I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should "make no law respecting an establishment of religion, or prohibiting the free exercise thereof," thus building a wall of separation between Church and State. (Thomas Jefferson, Letter to the Danbury Baptist Association, 1802)
>
> We are a religious people whose institutions presuppose a Supreme Being....When the state encourages religious instruction... it follows the best of our traditions. For it then respects the religious nature of our people and accommodates the public service to their spiritual needs. (Justice William O. Douglas, *Zorach v. Clauson,* 343 U.S. 306, 1952)

C. Reading and Discussion: Dealing with problems of freedom of religion

Have students read the rest of the lesson. Be sure students understand the difference between the establishment and the free exercise clauses, the conflicts that may arise between those clauses, and the need for limitations to be placed upon the free exercise of religion in some situations.

In the case of *Marsh v. Chambers*, 463 U.S. 783 (1983), referred to on page 111 of the student text, the right of the Nebraska legislature to hire a chaplain and hold prayers was upheld in a 6-3 decision. Chief Justice Warren E. Burger, writing for the Court, based his opinion upon historical custom. He wrote that 200 years of the national practice of opening legislative sessions with prayers is part of the "history and traditions of the country." Two justices, dissenting, said that legislative chaplains were a form of religious worship sponsored by government contrary to the values implied in the establishment clause, i.e., privacy in religious matters, government neutrality, and freedom of conscience.

D. Concluding Activity

Conclude the lesson by leading a discussion of the questions in "Reviewing and using the lesson."

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Have students do research in the library on other cases on religious freedom. Some possible "establishment clause" cases are: *Engel v. Vitale*, 370 U.S. 421 (1962); *Abington School District v. Schempp,* 374 U.S. 203(1963); *Lemon v. Kurtzman*, 403 U.S. 602 (1971); *Stone v. Graham,* 449 U.S. 39 (1980); *Mueller v. Allen*, 463 U.S. 388 (1983); and *Wallace v. Jaffree*, 105 S.Ct. 2479 (1985). Have them report their findings to the class.

2. Have students interview their minister, priest, or rabbi concerning whether they support legislation permitting prayer in public schools. Students should ask for their reasons and report their findings to the class.

3. Ask students to seek and report upon contemporary freedom of religious expression issues in newspapers and news magazines.

4. Have a student report on the religious ideas of Roger Williams, Ann Hutchinson, or Thomas Hooker.

5. The following class activity will help students learn the difficulty of deciding when the free exercise of religion should be limited.

Wisconsin v. Yoder

People normally are allowed to practice their religious beliefs as they choose in America. Problems arise, as has been noted in the text, when belief leads people to act in ways that offend public morals, jeopardize public health, or are contrary to the public welfare. There are numerous cases in which the individual's right to act in accordance with his or her religious beliefs has come into conflict with government's legitimate interest in protecting society. The following activity involves an actual Supreme Court case, *Wisconsin v. Yoder,* 406 U.S. 205 (1972), in which this conflict is apparent.

The activity can be conducted as a class discussion. Have the students read about *Wisconsin v. Yoder* in the Student Handout on the next page. After the class has read the case, remind the students that the Amish believe they have the responsibility for educating their children in the values of the Amish religion and culture. Wisconsin believes the state has the responsibility for educating young people so that they will have the knowledge, skills,and values necessary for working and participating in American society. Ask them to think of this case in terms of competing responsibilities.

Lead a discussion, focusing on the students' reasoning. You may wish to poll them to determine if they favor the Amish point of view or if they believe Wisconsin's case is more persuasive.

After completing the discussion, you may wish to inform the class that the Supreme Court of the State of Wisconsin found in favor of the Amish and reversed the trial court. The case was appealed to the United States Supreme Court which upheld the decision of the state court. Chief Justice Warren E. Burger, writing for the majority, said:

> ...There is no doubt as to the power of a State, having a high responsibility for education of its citizens, to impose reasonable regulations for the control and duration of basic education. Providing public schools ranks at the very apex of the function of a State. Yet even this paramount responsibility [has been] made to yield to the rights of parents to provide an equivalent education in a privately operated system....
>
> ...In order for Wisconsin to compel school attendance beyond the eighth grade against a claim that such attendance interferes with the practice of a legitimate religious belief, it must appear either that the State does not deny the free exercise of religious belief by its requirement, or that there is a state interest of sufficient magnitude to override the interest claiming protection under the Free Exercise [of religion] Clause....
>
> ...The conclusion is inescapable that secondary schooling, by exposing Amish children to worldly influences in terms of attitudes, goals, and values contrary to beliefs, and by substantially interfering with the religious development of the Amish child and his integration into the way of life of the Amish faith community at the crucial adolescent stage of development, contravenes the basic religious tenets and practice of the Amish faith, both as to the parent and the child.

STUDENT HANDOUT VII

Wisconsin v. Yoder (1972)

The State of Wisconsin requires parents to send their children to public or private schools until they reach the age of 16. The purpose of the law is to provide all children with educational opportunities. Any parent who is convicted of violating this law could be fined or imprisoned.

Jonas Yoder was a member of an Old Order Amish community in Wisconsin. The members of this community believe that they must raise their children according to the principles of the Old Order Amish religion. After completion of the eighth grade (usually by age 14), Amish teen-agers are expected to continue their education by working with their parents. Through learning-by-doing, Amish teen-agers acquire the specific skills needed to perform the adult roles of Amish farmers or housewives. They also acquire Amish attitudes favoring manual labor and self-reliance. At the same time, the Amish teen-ager has opportunities to deepen his or her religious faith, so that he or she can be prepared to accept the religious obligations of adult members of the Amish community. In this way Amish life is maintained and strengthened.

The Amish believe that their children cannot be prepared for adult Amish life by attending high school. They feel that they would be drawn away from the traditional religious beliefs and occupations by exposure in high school to science, machines, and modern life-styles.

The state of Wisconsin believes that high school attendance until the age of 16 is important for all children and that the Amish should not be treated differently from other residents of Wisconsin. Besides, since there are several hundred religious sects, granting exceptions to compulsory education would threaten the existence of the public school system. The public schools bring together children from the neighborhood or the community. It is here that all creeds, colors, and religious groups meet on an equal footing and learn to live together. It is in the public schools that children learn the values and skills that allow them to participate fully in American life. Also, argued the state of Wisconsin, suppose that some of the Amish children decide to leave their religious community and venture out into the world at large? Wouldn't they be ill-prepared for life in American society?

Jonas Yoder refused to allow his 15-year-old son to attend high school. In 1968, Mr. Yoder and several other Amish parents who had refused to send their children to school were arrested, tried, and convicted of breaking the state law. They asked the Wisconsin Supreme Court to reverse their convictions.

Lesson 29

Why are there continuing controversies over religion and education?

LESSON OVERVIEW

Thomas Jefferson's position that there should be a "wall of separation" between church and state has often been criticized by the leaders of some religious groups and strongly supported by others. This has been especially true in the sensitive area of education. In this lesson, students examine some of the issues that arise regarding religion and education and the ways in which they have been resolved by the Supreme Court. The lesson should give students insight into the deeply-divided opinions that Americans have on the meaning of religious freedom as well as the range of positions on the topic.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to describe and apply the criteria that have been used by the Supreme Court in determining the constitutionality of laws relating to religion and schools.

2. Students should be able to explain the issues raised and the opinions of the Court in several leading cases on religion and the schools.

3. Students should be able to apply their understanding about the freedom of religion clauses of the First Amendment to specific situations.

TEACHING PROCEDURES

A. Reading and Problem Solving:
Understanding and applying a test for deciding cases on the establishment of religion

Begin the lesson by having students participate in the "Problem solving" activity. Read the introductory paragraph in the activity and discuss the three-part "Lemon test." Divide the class into groups of three to five students. Have them read the situations in the problem-solving exercise and apply the "Lemon test" to decide whether the laws cited should be declared unconstitutional. Have the groups report their decisions and the reasoning they applied to reach their decision in each situation.

For the teacher's information, the following is provided on the cases related to the situations in "Problem solving."

1. In *Wallace v. Jaffree,* 105 S.Ct. 2479 (June, 1985), by a 6-3 vote, the Supreme Court struck down an Alabama law that authorized a period of silence "for meditation or voluntary prayer" in public schools, as a violation of the first requirement of the "Lemon test," that the primary purpose of the law must be secular. The Court said that the law was "entirely motivated...to advance religion."

2. In *Edwards v. Aguillard*, 107 S. Ct. 2573 (1987), the Court, in a 7-2 decision, voided a Louisiana law that required the teaching of the biblical version of creation if the theory of evolution was taught in science classrooms.

3. In *Stone v. Graham,* 449 U.S. 39 (1980), the Court invalidated a Kentucky law requiring display of the Ten Commandments in public classrooms, as violating the first requirement of the "Lemon test."

4. In *Mueller v. Allen*, 463 U.S. 388 (1983), by a 5-4 vote, the Court upheld such a tax break for parents of both public and parochial students, even though the major tax deduction, for tuition, benefited only the parents of parochial students.

5. In a 1985 case, *Aguilar v. Felton,* 105 S. Ct. 3248, the Court in a 5-4 decision, held such a law to be a violation of the First Amendment, as involving an "excessive entanglement of church and state."

B. Reading and Problem Solving: Dealing with contemporary problems about religion and education

Have students read "Deciding contemporary issues about religion and education." Divide the class into groups of three to five students and assign each group one of the cases in the section. Then, ask students to use the "Problem solving" activity as it relates to the case they have been assigned. Complete this activity by leading a discussion of group responses.

C. Reading and Debate: Understanding the continuing controversy over religion and education

Have students read "The controversy continues." Divide the class into three groups. Two groups should conduct a debate on the following question, "Resolved: A constitutional amendment depriving the Supreme Court of its power to review state legislation regarding religious practices in public schools should be passed." The third group should study the issue and then judge the debate.

D. Concluding Activity

Conclude the lesson by leading a discussion of "Reviewing and using the lesson."

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Ask students to write essays explaining whether or not public schools should offer a class in "History of Religion."

2. Ask several students to find out and report to the class what positions major religious organizations take on the question of prayer in the schools.

Lesson 30

What is the importance of your right to freedom of expression?

LESSON OVERVIEW

In this lesson students will learn about the relationship of freedom of expression to political freedom. They will learn about those historical events that help us understand why the Founders thought this right was fundamental. They will also examine some of the principal arguments in support of freedom of expression.

In spite of the fact that the prohibition against governmental intrusions on freedom of expression is stated in absolute terms in the First Amendment, the Supreme Court has held certain limits to be constitutional. Students learn that there are limits on this important freedom when it comes into conflict with certain other important rights and interests. Some of the Court-developed criteria for imposing these limitations in cases of sedition--the "clear and present danger," the "dangerous tendency," and the "incitement" tests are presented as guidelines which students apply to real cases.

LESSON OBJECTIVES

At the conclusion of this lesson:

l. Students should be able to explain the connection between freedom of expression and constitutional democracy.

2. Students should be able to describe some of the historical events that illustrate the importance of the protection of freedom of expression.

3. Students should be able to explain the major arguments in support of freedom of expression.

4. Students should be able to describe the criteria that have been used by the Supreme Court in determining constitutionally permissible limitations on freedom of expression in cases involving seditious speech.

TEACHING PROCEDURES

A. Reading and Group Activity:
Understanding the importance of freedom of expression

Have students read "The Founders, history, and freedom of expression" and "Why is freedom of expression important?" Then lead students in a discussion of the importance of freedom of expression in a representative democracy. Ask them what lessons they think can be drawn about the importance of freedom of expression from the historical episodes described.

Then, divide the class into five teams and assign each team the responsibility of reporting on one of the five justifications for free speech. In their reports, the teams should discuss what, if any, relationship there is between the argument in support of free speech and the basic ideas of natural rights, republicanism, and constitutionalism.

B. Reading and Group Activity:
Deciding when freedom of expression may be limited

Write on the board the words from the First Amendment, "Congress shall make no law . . . abridging the freedom of speech, or of the press; . . ." Ask students whether they think this prohibition on Congress was meant by the Framers to be an absolute bar against any restriction of speech and press. Ask for examples of speech which they think may not be protected by the First Amendment.

Introduce the "clear and present danger," "dangerous tendency," and "incitement" tests. Have students define these terms in their own words. Then have students read "When should your freedom of expression be limited?" and "Tests used in limiting freedom of expression." In preparation for the group activity to follow, be sure students understand the three tests and their purposes.

Then, divide the class into five groups, each assigned to read one of the free speech cases in the lesson. Each group should focus its discussion on the three questions in "Applying the tests to sedition cases." Call on each group to explain and justify its answers to the three questions as they relate to the case that group has read. (Brief summaries of these cases are included in the reference section at the end of this lesson.)

C. Reading and Writing Activity: Dealing with other issues of freedom of expression

Have students read "Other issues of freedom of expresson." Then, discuss briefly with them its contents. Be sure students understand that this lesson has only been a brief introduction to one area of freedom of expression--seditious speech. It should also be emphasized that the right to free speech implies a corresponding duty, the recognition of that right for others.

D. Concluding Activity

Conclude the lesson by leading students in a discussion of "Reviewing and using the lesson."

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Have students prepare a presentation discussing regulation of commercial speech (advertising) and media broadcasting. They may wish to contact someone in an advertising agency, on a newspaper, or at a televison or radio station.

2. Have students research and prepare a presentation on the "fairness doctrine" and "public interest" standards regulating political debate on radio and television.

3. Have students conduct research on one of the following free speech cases which apply in a school setting.

Tinker v. Des Moines School District, 393 U.S. 503 (1969)
Bethel School District v. Fraser, 54 U.S.L.W. 5054 (1986)

4. You may wish to have the students do the following writing activity.

Political theorist Alexander Meiklejohn, in his work *Political Freedom*, poses a question related to the materials in this lesson. He asks, "Shall we give a hearing to those who hate and despise freedom, to those who, if they had the power, would destroy our institutions?" Write this question on the board and discuss it for comprehension. Instruct students to write a brief essay of two to three paragraphs that is responsive to Meiklejohn's question. Instruct them to support their reasoning with material from the lesson. Students should share their ideas with one another and the class.

Reference Section On The Cases Discussed In This Lesson

For the teacher's information, the following are brief outlines of what happened in the cases studied.

1. *Schenck v. United States*, 249 U.S. 47 (1919). The Supreme Court upheld Schenck's conviction. This was the first effort in history by the Court to develop a test to use in deciding when freedom of expression should be limited. Justice Oliver Wendell Holmes, Jr., wrote the opinion which contained the clear and present danger test.

2. *Gitlow v. New York*, 268 U.S. 652 (1925). Gitlow's conviction was upheld by the Supreme Court. In doing so, the Court created the dangerous tendency test. This test gives the government greater power to limit freedom of expression than the clear and present danger test.

3. *Dennis v. United States,* 341 U.S. 494 (1951). The Supreme Court upheld Dennis' conviction, using the dangerous tendency test, saying that speakers may be punished, even though there was little or no immediate threat, if they intended to bring about overthrow "as speedily as circumstances would permit."

4. *Yates v. United States*, 354 U.S. 298 (1957). In this case, the Supreme Court overruled the conviction of the Communists by the California court. This decision used the dangerous tendency test, but reduced the amount of power it gave government to limit freedom of expression. It distinguished between urging belief in ideas, which is permissible, and urging action, which is punishable.

5. *Brandenburg v. Ohio,* 395 U.S. 444 (1969). The Supreme Court ruled that the Ohio law was unconstitutional. In doing so, it created a new test, the incitement test. This is generally considered to be the current state of the law. It provides the right to freedom of expression with more protection from government interference than the earlier tests.

UNIT OPTIONAL ACTIVITY: Practicing for a competition hearing

Form a team of five to seven students and ask them to prepare a four minute presentation on the following topical question and to be prepared to answer the sub-questions which follow it. Then, have the group make its presentation to the rest of the class which will serve as a simulated congressional committee. After the presentation, the members of the committee should ask the follow-up questions provided below and any other questions relevant to the topical question or the unit as a whole. One student from the "congressional" committee should be selected to chair the proceedings.

Topical question

The expansion of the rights guaranteed in the Constitution has been achieved by constitutional amendment, judicial interpretation, legislative and executive actions, and social and political pressure reflecting changing attitudes in the population. Which, if any, of these factors do you think has been most important? Why?

Follow-up questions

1. Explain the possible conflict between the "establishment" and "free exercise" clauses of the First Amendment. Give examples of this conflict. (Hypothetical examples are acceptable.)

2. Explain the difference between procedural and substantive due process.

3. Why is the right to freedom of expression especially important to a constitutional democracy?

Unit Six

Responsibilities of the Citizen

This unit of one lesson introduces the student to some of the issues raised by the question, "What are the responsibilities of the citizen?" The student learns about the kind of questions to be asked and the factors to be taken into account. The purpose of the lesson is not to offer a prescription for citizenship. It is to help students know how to think about the issue and to develop reasonable conclusions.

Objective

Students should be able to describe the factors to be taken into account in making an argument about the responsibilities of citizenship.

Lesson 31

What should be the responsibilities of the citizen?

LESSON OVERVIEW

This lesson deals with some of the important considerations that should be taken into account in thinking about the responsibilities of citizenship. Following a review of the fundamental principles of our constitutional government, the student is provided with a definition of citizen. The lesson then addresses political participation since it is the right to participate that distinguishes the citizen from the non-citizen. The text addresses two fundamental questions: "Why should you participate?" and "How much should you participate?" The student's attention is drawn to the necessity of discussing these questions in terms of the reasons why we think we need government in the first place. The question of responsibility is then introduced, and the student learns that the claim to a certain right is thought by many to entail certain responsibilities.

The final sections of the lesson introduce the student to two very difficult issues. The first is, "What is a citizen's duty in regard to bad laws?" The second deals with the difficulty of defining the commmon welfare.

At the culmination of the lesson, the student is asked to formulate an argument about the responsibilities of citizenship, using the information and ideas that have been covered in the entire text.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to explain the difference between a citizen and a non-citizen.

2. Students should be able to describe various forms of participation.

3. Students should be able to develop and support positions on why and how much a citizen should participate. They should demonstrate an understanding of the relationship of their positions to the fundamental principles of the American political system.

4. Students should be able to explain the relationship between rights and responsibilities.

5. Students should be able to explain under what circumstances it might be argued that a citizen is not obliged to obey the law.

6. Students should be able to describe the problems associated with the idea of the common welfare.

7. Students should be able to take and defend a position about the responsibilities of citizenship, incorporating the information and ideas learned from this text.

Teaching Procedures

A. Reading and Discussion:
Reviewing the basic principles of the American constitutional system

Have students read "What is the purpose of our government?" and "What kind of government is best suited to fulfilling this purpose?" Review with the students the basic ideas of natural rights, republicanism, and constitutionalism that underlie the American constitutional system. You might point out to students that it is impossible to decide the responsibilities of citizens until you have determined the kind of government in which they are to be citizens. For example, the duties of a citizen in the Soviet Union are different from those in the United States.

B. Reading and Discussion:
Understanding the difference between citizens and non-citizens

Have students read "Who is a citizen?" Be sure they understand that the difference between the citizen and the non-citizen is that the citizen can participate in the political system and the non-citizen can't.

C. Reading and Discussion:
Understanding the problems of political participation

Have students read from "What is participation?" up to, but not including, "What responsibilities accompany our basic rights?" Make certain that students understand that there are various ways of participating in addition to voting. Then, raise with them the question "Should you participate and if so, why?" You may want to raise this question with them before they have read the section, "Should you participate?" Point out to students the relationship described in the text between our views on the purposes of government and our judgment about whether we should participate. On the basis of this discussion, ask students how much time they think a citizen should devote to participating in politics. Bring their attention to those considerations mentioned in the text that help to arrive at reasonable conclusions about this question.

D. Reading and Class Activity:
Understanding the relationship between rights and responsibilities

Divide the class into groups of three to five. Have each group list from five to seven basic rights they think they have or should have. Each group should then take a position on whether they think each right they claim incurs a corresponding responsibility. If so, they should explain that responsibility.

Next, have students read "What responsibilities accompany our basic rights?" and "What is the source of the responsibilities of the citizen?" Have them compare the position developed in the reading with the position they have taken in the discussion.

E. Reading and Discussion:
Understanding the choices of the citizen faced with bad rules

Have students read "Must you obey bad rules?" and "What choices do you have if you think a law is unjust?" Discuss the material in this section. You might especially want to discuss the dilemma faced by the citizen who lives under a bad government that makes bad laws. Attention should be paid to the range of lawful alternatives available in the American political system for the citizen who feels a particular law or set of laws is unjust.

F. Reading and Problem Solving:
Understanding problems involved in determining the common welfare

Have students read "What is the importance of the common welfare?" and "How can you determine the common welfare?" To help students understand the importance of determining the common welfare and the difficulty of doing so in some situations, have them complete the problem-solving activity in groups of three to five. Then lead a class discussion of the responses of the groups to the questions contained in the exercise.

G. Reading and Problem Solving:
Further exploration of the common welfare and the responsibilities of the citizen

Have students read "When should you consider the interests of others more important than your own?" Divide the class into two groups and assign each to develop and support a response to one of the questions contained in the problem-solving exercise following the selection. After each group has presented its response, lead a class discussion of their positions.

H. Reading and Problem Solving: Determining the responsibilities of citizens

Have students read "What do you think your responsibilities as a citizen should be?" Then, divide the class into groups of three to five. Have them consider the quotations contained in the problem-solving activity in developing responses to the question of the selection. Group positions may then be subjected to full class discussion and debate.

I. Concluding Activity

Conclude the lesson by leading a discussion of the questions included in "Reviewing and using the lesson."

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

Five topics are listed below. You may wish to use them as discussion topics or ask students to write essays on one of them.

1. Is it realistic to expect people today to practice "civic virtue?" Can you think of a situation in which citizens ought, in your view, to practice civic virtue. If not, why not?

2. Is it ever the duty of citizens to risk their lives for their country? Is this an example of practicing civic virtue? Why?

3. Assume that you are old enough to vote. What political responsibilities do you have? How did you get them? Is there a difference between your responsibilities as a member of society and your responsibilities as a citizen?

4. What do you believe is the purpose of political participation? Is it just looking out for your own personal interests? What about all of the political participation that concerns the use of nuclear power, poverty in third-world nations, and similar issues? Are these activities concerned with something beyond individual interest?

5. How can we decide what the common welfare is? If we are not sure of what it is, should we ignore it and simply pursue our own personal interest? Are people who do try to further the common welfare at the expense of their own individual interests being foolhardy? Can you think of any examples from real life which illustrate your point of view?

UNIT OPTIONAL ACTIVITY: Practicing for a competition hearing

Form a team of five to seven students and ask them to prepare a four minute presentation on the following topical question and to be prepared to answer the sub-questions which follow it. Then, have the group make its presentation to the rest of the class which will serve as a simulated congressional committee. After the presentation, the members of the committee should ask the follow-up questions provided below and any other questions relevant to the topical question or the unit as a whole. One student from the "congressional" committee should be selected to chair the proceedings.

Topical question

Since it is not possible to describe the common welfare with exactness, the citizen is under no obligation to pursue anyone's welfare but his or her own. Do you agree? Why?

Follow-up questions

1. What is civic virtue? What role should it play in determining the conduct of American citizens?

2. How much time should citizens devote to public affairs? Why?

3. What is a good citizen?

Reference Section

Declaration of Independence

IN CONGRESS, JULY 4, 1776.

A DECLARATION

BY THE REPRESENTATIVES OF THE

UNITED STATES OF AMERICA,

IN GENERAL CONGRESS ASSEMBLED.

WHEN in the Course of human Events, it becomes necessary for one People to dissolve the Political Bands which have connected them with another, and to assume among the Powers of the Earth, the separate and equal Station to which the Laws of Nature and of Nature's God entitle them, a decent Respect to the Opinions of Mankind requires that they should declare the causes which impel them to the Separation.

We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness--That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed, that whenever any Form of Government becomes destructive of these Ends it is the Right of the People to alter or to abolish it, and to institute new Government, laying its Foundation on such Principles, and organizing its Powers in such Form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient Causes; and accordingly all Experience hath shewn, that Mankind are more disposed to suffer, while Evils are sufferable, than to right themselves by abolishing the Forms to which they are accustomed. But when a long Train of Abuses and Usurpations, pursuing invariably the same Object, evinces a Design to reduce them under absolute Despotism, it is their Right, it is their Duty, to throw off such Government, and to provide new Guards for their future Security. Such has been the patient Sufferance of these Colonies; and such is now the Necessity which constrains them to alter their former Systems of Government. The History of the present King of Great-Britain is a History of repeated Injuries and Usurpations, all having in direct Object the Establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid World.

He has refused his Assent to Laws, the most wholesome and necessary for the public Good.

He has forbidden his Governors to pass Laws of immediate and pressing Importance, unless suspended in their Operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other Laws for the Accommodation of large Districts of People, unless those People would relinquish the Right of Representation in the Legislature, a Right inestimable to them, and formidable to Tyrants only.

He has called together Legislative Bodies at Places unusual, uncomfortable, and distant from the Depository of their public Records, for the sole Purpose of fatiguing them into Compliance with his Measures.

He has dissolved Representative Houses repeatedly, for opposing with manly Firmness his Invasions on the Rights of the People.

He has refused for a long Time, after such Dissolutions, to cause others to be elected; whereby the Legislative Powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the Dangers of Invasions from without, and Convulsions within.

He has endeavored to prevent the Population of these States; for that Purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their Migrations hither, and raising the Conditions of new Appropriations of Lands.

He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary Powers.

He has made Judges dependent on his Will alone, for the Tenure of their Offices, and the Amount and Payment of their Salaries.

He has erected a Multitude of new Offices, and sent hither Swarms of Officers to harass our People and eat out their Substance.

He has kept among us, in Times of Peace, Standing Armies, without the consent of our Legislatures.

He has affected to render the Military independent of and superior to the Civil Power.

He has combined with others to subject us to a Jurisdiction foreign to our Constitution, and unacknowledged by our Laws; giving his Assent to their Acts of pretended Legislation:

For quartering large Bodies of Armed Troops among us:

For protecting them, by a mock Trial, from Punishment for any Murders which they should commit on the Inhabitants of these States:

For cutting off our Trade with all Parts of the World:

For imposing Taxes on us without our Consent:

For depriving us, in many Cases, of the Benefits of Trial by Jury:

For transporting us beyond Seas to be tried for pretended Offenses:

For abolishing the free System of English Laws in a neighbouring Province, establishing therein an Arbitrary Government, and enlarging its Boundaries, so as to render it at once an Example and fit Instrument for introducing the same absolute Rule into these Colonies:

For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments:

For suspending our own Legislatures, and declaring themselves invested with Power to legislate for us in all Cases whatsoever.

He has abdicated Government here, by declaring us out of his Protection and waging War against us.

He has plundered our Seas, ravaged our Coasts, burnt our Towns, and destroyed the Lives of our People.

He is, at this Time, transporting large Armies of foreign Mercenaries to compleat the Works of Death, Desolation, and Tyranny, already begun with circumstances of Cruelty and Perfidy, scarcely paralleled in the most barbarous Ages, and totally unworthy the Head of a civilized Nation.

He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the Executioners of their Friends and Brethren, or to fall themselves by their Hands.

He has excited domestic Insurrections amongst us, and has endeavoured to bring on the Inhabitants of our Frontiers, the merciless Indian Savages, whose known Rule of Warfare, is an undistinguished Destruction, of all Ages, Sexes and Conditions.

In every stage of these Oppressions we have Petitioned for Redress in the most humble Terms: Our repeated Petitions have been answered only by repeated Injury. A Prince, whose Character is thus marked by every act which may define a Tyrant, is unfit to be the Ruler of a free People.

Nor have we been wanting in Attentions to our British Brethren. We have warned them from Time to Time of Attempts by their Legislature to extend an unwarrantable Jurisdiction over us. We have reminded them of the Circumstances of our Emigration and Settlement here. We have appealed to their native Justice and Magnanimity, and we have conjured them by the Ties of our common Kindred to disavow these Usurpations, which, would inevitably interrupt our Connections and Correspondence. They too have been deaf to the Voice of Justice and of Consanguinity. We must, therefore, acquiesce in the Necessity, which denounces our Separation, and hold them, as we hold the rest of Mankind, Enemies in War, in Peace, Friends.

We, therefore, the Representatives of the UNITED STATES OF AMERICA, in GENERAL CONGRESS, Assembled, appealing to the Supreme Judge of the World for the Rectitude of our Intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly Publish and Declare, That these United Colonies are, and of Right ought to be, FREE AND INDEPENDENT STATES; that they are absolved from all Allegiance to the British Crown, and that all political Connection between them and the State of Great-Britain, is and ought to be totally dissolved; and that as FREE AND INDEPENDENT STATES, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which INDEPENDENT STATES may of right do. And for the support of this Declaration, with a firm Reliance on the Protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes, and our sacred Honor.

Signed by ORDER and in BEHALF of the CONGRESS,

JOHN HANCOCK, PRESIDENT.

Signers of the Declaration of Independence

New-Hampshire
Josiah Bartlett,
Wm. Whipple,
Matthew Thornton.

Massachusetts-Bay.
Saml. Adams,
John Adams,
Robt. Treat Paine,
Elbridge Gerry.

Rhode-Island and Providence, &c.
Step. Hopkins,
William Ellery.

Connecticut.
Roger Sherman,
Saml. Huntington,
Wm. Williams,
Oliver Wolcott.

New-York
Wm. Floyd,
Phil. Livingston,
Frans. Lewis,
Lewis Morris.

New-Jersey
Richd. Stockton,
Jno. Witherspoon,
Fras. Hopkinson,
John Hart,
Abra. Clark.

Pennsylvania
Robt. Morris,
Benjamin Rush,
Benja. Franklin,
John Morton,
Geo. Clymer,
Jas. Smith
Geo. Taylor,
James Wilson,
Geo. Ross.

Delaware
Casar Rodney,
Geo. Read,
(Tho M:Kean.)

Maryland
Samuel Chase,
Wm. Paca,
Thos. Stone,
Charles Carroll, of Carrollton.

Virginia
George Wythe,
Richard Henry Lee,
Ths. Jefferson,
Benja. Harrison,
Thos. Nelson, jr.
Francis Lightfoot Lee,
Carter Braxton.

North-Carolina.
Wm. Hooper
Joseph Hewes,
John Penn.

South-Carolina.
Edward Rutledge,
Thos. Heyward, junr.
Thomas Lynch, junr.
Arthur Middleton.

Georgia.
Button Gwinnett,
Lyman Hall,
Geo. Walton.

According to the authenticated list printed by order of Congress of January 18, 1777.
Braces, spelling, and abbreviations of names conform to original printed list.

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The Constitution of the United States of America

PREAMBLE

We the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I

Section One

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section Two

1. The House of Representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

2. No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

3. [Representatives and direct taxes shall be apporioned among the several states which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons.]* The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each state shall have at least one Representative; and until such enumeration shall be made, the state of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

4. When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

5. The House of Representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

Section Three

1. [The Senate of the United States shall be composed of two Senators from each state, chosen by the legislature thereof, for six years; and each Senator shall have one vote.]

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments [until the next meeting of the legislature, which shall then fill such vacancies.]

3. No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

4. The Vice-President of the United States shall be president of the Senate, but shall have no vote unless they be equally divided.

5. The Senate shall choose their other officers, and also a president pro tempore, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall

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*This is the original text. Passages in brackets indicate that they were affected by Amendments.

preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

7. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.

Section Four

1. The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each state by the legislature thereof, but the Congress may at any time by law make or alter such regulations except as to the place of choosing Senators.

2. [The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.]

Section Five

1. Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each House may provide.

2. Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

3. Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either House on any question shall, at the desire of one-fifth of those present, be entered on the journal.

4. Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

Section Six

1. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

2. No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either House during his continuance in office.

Section Seven

1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

2. Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

3. Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the

United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

Section Eight

The Congress shall have power:

1. To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

2. To borrow money on the credit of the United States;

3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes;

4. To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

6. To provide for the punishment of counterfeiting the securities and current coin of the United States;

7. To establish post offices and post roads;

8. To promote the progress of science and useful arts, by securing for limited time to authors and inventors the exclusive right to their respective writings and discoveries;

9. To constitute tribunals inferior to the Supreme Court;

10. To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

12. To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

13. To provide and maintain a navy;

14. To make rules for the government and regulation of the land and naval forces;

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions;

16. To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

17. To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by session of particular states, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings; - and

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

Section Nine

1. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

2. The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

3. No bill of attainder or ex post facto law shall be passed.

4. No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

5. No tax or duty shall be laid on articles exported from any state.

6. No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to, or from,

one state, be obliged to enter clear, or pay duties in another.

7. No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

8. No title of nobility shall be granted by the United States: And no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever from any king, prince, or foreign state.

Section Ten

1. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

2. No state shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

3. No state shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II

Section One

1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected, as follows:

2. Each state shall appoint, in such manner as the legislature therefore may direct, a number of electors, equal to the whole number of Senators and Representatives to which the state may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

3. [The Electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice-President.]

4. The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

5. No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

6. [In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may by law provide for the case of removal, death, resignation or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act according-

ly, until the disability be removed, or a President shall be elected.]

7. The President shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

8. Before he enter the execution of this office, he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

Section Two

1. The President shall be Commander in Chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

Section Three

He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

Section Four

The President, Vice-President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III

Section One

The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

Section Two

1. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states; between a state and citizens of another state; between citizens of different states; between citizens of the same state claiming lands under grants of different states, and [between a state, or the citizens thereof, and foreign states, citizens or subjects.]

2. In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where said crimes shall have been committed; but when not committed within any state, the

trial shall be at such place or places as the Congress may by law have directed.

Section Three

1. Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

2. The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted.

ARTICLE IV

Section One

Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

Section Two

1. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

2. A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall on demand of the executive authority of the state, from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

3. [No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.]

Section Three

1. New states may be admitted by the Congress into this Union, but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned as well as of the Congress.

2. The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States, and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

Section Four

The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

ARTICLE V

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI

1. All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the confederation.

2. This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any state to the contrary notwithstanding.

3. The Senators and Representatives before mentioned, and the members of the several state legisla-

tures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII

The ratification of the conventions of nine states, shall be sufficient for the establishment of this Constitution between the states so ratifying the same.

Done in Convention, by the unanimous consent of the States present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the independence of the United States of America the twelfth. In witness whereof we have hereunto subscribed our names.

George Washington, President,
and Deputy from Virginia.

(This Constitution was adopted on September 17, 1787 by the Constitutional Convention, and was declared ratified on July 2, 1788.)

Signers of the Constitution

New Hampshire
John Langdon
Nicholas Gilman

Massachusetts
Nathaniel Gorham
Rufus King

Connecticut
William Samuel Johnson
Roger Sherman

New York
Alexander Hamilton

New Jersey
William Livingston
David Brearley
William Paterson
Jonathan Dayton

Pennsylvania
Benjamin Franklin
Thomas Mifflin
Robert Morris
George Clymer
Thomas Fitzsimons
Jared Ingersoll
James Wilson
Gouverneur Morris

Delaware
George Read
Gunning Bedford, Jr.
John Dickinson
Richard Bassett
Jacob Broom

Maryland
James McHenry
Daniel of St. Tho. Jenifer
Daniel Carrol

Virginia
John Blair
James Madison, Junior.

North Carolina
William Blount
Richard Dobbs Spaight
Hugh Williamson

South Carolina
John Rutledge
Charles Cotesworth Pinckney
Charles Pinckney
Pierce Butler

Georgia
William Few
Abraham Baldwin

Attest: William Jackson,
Secretary

AMENDMENTS TO THE CONSTITUTION

Since 1787, twenty-six amendments have been proposed by the Congress and ratified by the several states, pursuant to the fifth Article of the original Constitution.

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances. (Ratified December, 1791.)

Amendment II

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed. (Ratified December, 1791.)

Amendment III

No Soldier shall, in time of peace be quartered in any house without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law. (Ratified December, 1791.)

Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. (Ratified December, 1791.)

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. (Ratified December, 1791.)

Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence. (Ratified December, 1791.)

Amendment VII

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law. (Ratified December, 1791.)

Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. (Ratified December, 1791.)

Amendment IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people. (Ratified December, 1791.)

Amendment X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. (Ratified December, 1791.)

Amendment XI

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State. (Ratified February, 1795.)

Amendment XII

The Electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;--The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;--The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. [And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.] The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States. (Ratified June, 1804.)

Amendment XIII

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation. (Ratified December, 1865.)

Amendment XIV

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or a Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article. (Ratified July, 1868.)

Amendment XV

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation. (Ratified February, 1870.)

Amendment XVI

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration. (Ratified February, 1913.)

Amendment XVII

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution. (Ratified April, 1913.)

Amendment XVIII

[Section 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

Section 2. The Congress and Several States shall have concurrent power to enforce this article by appropriate legislation.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.] (Ratified January, 1919.)

Amendment XIX

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Congress shall have power to enforce this article by appropriate legislation. (Ratified August, 1920.)

Amendment XX

Section 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

Section 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

Section 3. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

Section 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

Section 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

Section 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission. (Ratified January, 1933.)

Amendment XXI

Section 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

Section 2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress. (Ratified December, 1933.)

Amendment XXII

Section 1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

Section 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress. (Ratified February, 1951.)

Amendment XXIII

Section 1. The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct:

A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

Section 2. The Congress shall have power to enforce this article by appropriate legislation. (Ratified March, 1961.)

Amendment XXIV

Section 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

Section 2. The Congress shall have power to enforce this article by appropriate legislation. (Ratified January, 1964.)

Amendment XXV

Section 1. In case of removal of the President from office or of his death or resignation, the Vice President shall become President.

Section 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

Section 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

Section 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office. (Ratified February, 1967.)

Amendment XXVI

Section 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

Section 2. The Congress shall have power to enforce this article by appropriate legislation. (Ratified July, 1971.)

Bicentennial Competition Culminating Activities

After completing the *We the People...* curriculum, teachers may select either a competitive or a non-competitive option for the culminating activities. In the competitive option, teachers agree to teach the entire six-week curriculum of 31 lessons and have their students take a multiple-choice constitutional literacy test. Classes that average 70% or better* on this written test are eligible to compete in mock congressional hearings in their congressional districts with winners going on to state and national competitions.

In the non-competitive option, teachers can teach from four to six of the curriculum units. If they do not teach the entire six units, they must teach at least Units One and Six, plus two other units of their choice. The written test and the hearing are optional in the non-competitive mode.

Constitutional Literacy Test

The constitutional literacy test is designed to assess students' understanding of the history and fundamental principles underlying the Constitution and Bill of Rights as well as their contemporary applications. It has approximately sixty multiple choice questions drawn from the six units in the *We the People...* curriculum. All test questions were developed exclusively from the curriculum, so students will not need to go to other sources in order to succeed on the test.

Congressional Hearing

The competition culminates with a mock congressional hearing. In preparing for the hearing, each competing class divides up into six teams, each team becoming "expert" in one of the six topics in the *We the People...* curriculum. Each team is given three open-ended questions at the beginning of the curriculum. The questions require that the team take positions on constitutional issues of contemporary relevance. Each team will be asked to address one of the three questions at the hearing.

At the hearing competition, each of the six expert teams appears before a "congressional committee" composed of three members who may include local government and civic leaders as well as scholars from the fields of political science, history, and law. The members of the congressional committee listen to each team's presentation, question the team on its topic, and score each team based on guidelines provided by the Center.

Each class team appears at the hearing for approximately ten minutes. The chair of the congressional committee asks the team to answer one of the three questions given to the team in advance of the hearing. The team members do not know which question they will be asked until they appear before the committee. They then have four minutes to present their testimony. The congressional committee members have six minutes to ask follow-up questions. At the end of the ten minute session, the judges (i.e. the congressional committee members) score the team's performance before the next team appears.

Judges are expected to keep in mind that questions are open-ended and that knowledgeable and reasonable people may take different positions on them. Judging is based on how well the presenters demonstrate and apply their knowledge of constitutional history and principles and how well they argue their positions.

Each class team is scored on several criteria including knowledge of the history of the Constitution, understanding of the issues, reasoning, supporting arguments, and participation of team members. The total of all six teams' scores is the class's score for the hearing.

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* Percent subject to revision pending further field testing.

Under the competitive option, the class with the highest score at the congressional district level is eligible to go on to a state level competition which involves another hearing following a similar format. Each state level winning class is eligible to compete in the final national level hearing in Washington D.C.

In the non-competitive option, a teacher may organize a mock congressional hearing as a culminating activity following the same procedures used in the competitive option, or the teacher may conduct a hearing using a modified format.

Award Certificates

An awards program will be provided for all students who participate in the competitive or non-competitive options.

Cooperative Learning Emphasis

Although this program clearly has a competitive component, a conscious effort has been made to incorporate cooperative learning as an integral feature and to provide an alternative for teachers who would like their students to participate but not compete, that is, the non-competitive option.

In the competitive mode, cooperative learning is encouraged through two features of the program. First of all, the use of the average class score on the written test as the qualifier for participation in the hearing will prompt students to help one another, possibly even tutoring each other, to ensure a higher class average. Secondly, the formation of expert teams for the hearing will involve students within each team working together and will also encourage teams to help one another by providing critiques during practice sessions.

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Reference Material for a Federalist--Anti-Federalist Debate

Federalists' Position

The following information summarizes the arguments presented for the Federalists' position in the series of essays which are entitled *The Federalist.* These essays were by Alexander Hamilton, John Jay, and James Madison. They used a common pen-name, Publius, a patriot of ancient Rome.

I. Republican Government

Most people had thought that republican government could only exist in a small territory populated by people who possessed civic virtue. Publius argued that republican government is the only form of government suited to the spirit of Americans. He also maintained that it is possible to have republican government in a territory as large as that represented by the thirteen original states. Moreover, he maintained that it is possible to have republican government even if the people lack civic virtue. His most controversial claim was that such a republic, an extended republic, as he called it, would be superior to the classical republics of small city-states which depended on the civic virtue of the citizens.

In *Federalist* #10, he described what he thought was the major problem of the classical republics. That problem was what he called "faction." When he spoke of factions, he was referring to what we now call interest groups. These factions are made up of people of common interests or beliefs who try to get the government to do things that are desirable for them but which are contrary to the common good.

The old doctrines of republicanism had held that the main way of preventing this kind of behavior was for the citizens to possess civic virtue. That is, virtuous citizens would prefer the common good to their own particular interests. The encouragement of this kind of behavior would be accomplished by education, religion, and the good example of those who exercised political authority. Publius argued, however, that history demonstrated that this does not work. The old republics had been destroyed because people preferred their own interests to the good of the community.

A larger state could avoid these problems, Publius thought. This was so because the people would be dispersed over a large territory. A larger number of people would produce a greater number of interest groups. These interest groups, scattered over a large territory, would find it impossible to cooperate with one another in order to form majorities, get the government to do what they wanted, and obtain laws that were favorable to their own interests instead of the common interest. In addition, representation and checks and balances would also help to ensure that the common interest rather than private interests would influence the policy of the government. Thus, the extended republic solved one of the most important problems of the old republics and clearly represented a superior form of republican government.

II. Federalism

The Constitution established a new kind of political system: a federal system. In such a system, there are two governments, each sovereign in its own sphere and each with the authority to act directly upon the people. Previously there had been confederations which were collections of sovereign states. (The United Nations might be thought of as a sort of confederation.) Most frequently these confederations consisted of a group of sovereign states held together by treaties for mutual defense or for purposes of trade. The other form of government had been national or consolidated, in which all authority had been located in one central government.

The United States under the Articles of Confederation had been, as the name suggests, a confederation. The central government, such as it was, had very little authority. It could not, for example, tax the people directly. It could only request money from the states, and if the states did not pay the amounts requested, there was not anything the government (Congress) could do. Moreover, it could not pass any laws directly affecting the people, which made it difficult to enter into treaties with foreign countries or even to regulate trade among the states.

Publius argued that this had made the United States weak and disreputable abroad and disunited at home. He insisted that in order to solve these problems, there was a need for a national government with the authority to deal with those problems common to all of the states. These included foreign affairs, i.e., treaty and war-making powers. There is a clear need, he also argued, for a common authority to regulate commerce, coin money, and enforce contracts in order to restore the economy of the United States. All of this was necessary, he said, if the government was to be able to provide for the general defense and security as well as the common welfare of the United States.

This, he went out of his way to say, did not mean that the state governments were to be eliminated or made entirely subordinate to the government of the United States in regard to matters of purely local jurisdiction. It is true that under the Constitution, the laws passed by Congress are the supreme law of the land, but only in those matters over which Congress is given authority by the Constitution, and these are the powers enumerated in Article I, section 8 of the Constitution.

These powers should not be feared, Publius argued, because in any contest between the states and the national government, the advantage is on the side of the state governments. The state governments, being closer to the people than the national government, will have a greater claim to their loyalty and support. In fact, he argued, the greatest problem under the new Constitution will not come from the power of the national government but from the powers retained by the states. This is so in spite of the supremacy clause of the Constitution.

III. Separation of powers and checks and balances

Virtually all Americans in 1787 agreed that the separation of powers is the keystone of constitutional (limited) government. In *Federalist* #47, Publius wrote, "The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny."

However, critics of the Constitution pointed out that while the legislative, executive, and judicial powers were indeed placed in three separate branches, these powers were not completely distinct. Through the veto, the executive was involved in the legislative power. Through the authority to approve appointments and treaties, the legislative branch was involved in the executive power. These were merely two examples mentioned as violations of the principle of separation of powers.

Publius argued that if the three branches of government were totally separate, it would be impossible for them to check and balance each other. Hence, they must be armed with the power to do so. The new Constitution gives them this power. The executive can check the legislative branch through the use of the veto power. The legislative branch can check the executive by over-riding the veto by a two-thirds vote in the House and Senate. These and other devices provided by the Constitution ensure that the three branches of government will be kept in balance.

IV. The House of Representatives

Major objections were voiced by opponents to the two-year term and the relatively small number of representatives. Many believed that annual elections were required to keep the representatives responsible to their constituents. They also argued that one representative for 30,000 people was insufficient to provide for representative government.

Publius argued that elections every two years are sufficient to protect the safety of the people. He also maintained that two-year terms are desirable because they would enable the representatives to get more experience without making them so independent of the people's judgment as to become dangerous.

In answer to the claim that there are too few representatives, Publius argued that the limited power given to Congress makes it safe to entrust the legislative authority of the lower house to a fairly small number of persons. In addition, he appealed to the "vigilant and manly" spirit of Americans. "I am unable to conceive that the people of America, in their present temper, or under any circumstances which can speedily happen, will choose, and every year repeat the choice of sixty-five or a hundred men who would be disposed to form and pursue a scheme of tyranny or treachery."

Finally, he defended the number of representatives by arguing that the larger the assembly, the smaller the number of people who actually direct its affairs. This is so because large groups are more susceptible to the appeal of emotion and are more likely to be swayed by the appeals of clever and unscrupulous demagogues.

V. The Senate

Publius addressed four objections that had been raised regarding the Senate.

1. The qualifications for senators were more advanced age and a longer period of citizenship. (Senators were required to be at least 30 years of age and citizens for 9 years preceding election. Members of the House of Representatives must be 25 years old and citizens for 7 years.) He argued that the office of senator requires greater knowledge and stability of character. Since senators deal with foreign nations through the treaty-making power, they should be free of foreign influences, and this is more likely if they have been citizens for a longer period of time.

2. In response to objections over the appointment of senators by state legislatures, he claimed that this was the method favored by public opinion and also is useful as a means of linking the state governments to the federal government.

3. He defended the equal representation of each state in the Senate by candidly admitting that this was a compromise between the claims of the large states and the small states. He went on to claim that it is desirable for laws to require approval by a majority of the people and a majority of the states. He admitted that this might seem an inconvenience, making it more difficult to pass laws. But this may be a good thing because "the facility and excess of law-making seem to be the diseases to which our governments are most liable . . . ."

4. To those who were suspicious of the small number of senators, Madison insisted that it would result in greater stability and dignity in the government. He argued that large assemblies are susceptible to sudden and violent passions. A small body, elected for six-year terms, would be more sober and better informed in its deliberations. The resulting stability would be advantageous both in terms of domestic politics and foreign relations.

VI. The President

Publius had harsh words for critics of the presidency, who have "decorated" this office with "attributes superior in dignity and splendor to those of a King of Great Britain." He first addressed the selection of the president by the electoral college, a group of men chosen specifically for the purpose. This method, he claimed, would remove the selection of the president from tumult and disorder. Meeting in their several states, members of the electoral college would be less susceptible to intrigues and conspiracies. Describing the process by which the selection of the president might be made by the House of Representatives, he concluded, "This process of election affords a moral certainty that the office of president will seldom fall to the lot of any man who is not in an eminent degree endowed with the requisite qualifications." The result will be "a constant probability of seeing the station filled by characters pre-eminent for ability and virtue."

To those who argued that a strong executive is incompatible with republican government, Publius retorted that energy in the executive is the first prerequisite of good government. "It is essential to the protection of the community against foreign attacks; it is not less essential to the steady administration of the laws; to the protection of property against those irregular and high-handed combinations which sometimes interrupt the ordinary course of justice; to the security of liberty against the enterprises and assaults of ambition, of faction, and anarchy." He cited the example of Rome to demonstrate that a strong executive branch is essential for preventing the people from taking "refuge in the absolute power of a single man, under the formidable title of dictator . . ." A feeble executive, he insisted, leads to weak government and such a government, "whatever it may be in theory, must be, in practice, a bad government."

There were some people who argued in favor of a plural executive. Publius held that a plural executive is deficient in performing the executive functions, necessarily lacking secrecy, dispatch, and decisiveness. Moreover, a plural executive tends to conceal faults and destroy responsibility. Finally, he pointed out, a plural executive is more expensive than a single executive.

Defending the four-year term, Publius claimed that it would give the executive a certain independence from the transient whim and passing opinions of the people, which is desirable. "The republican principle demands that the deliberate sense of the community should govern the conduct of those to whom they entrust the management of their affairs; but it does not require an unqualified compliance to every sudden breeze of passion, or to every transient impulse which the people may receive from the acts of men, who flatter their prejudices to betray their interests." The people always intend the public good, but sometimes they are led astray. A statesman, he agreed, and especially the executive, should be able to resist these momentary impulses and act on the basis of long-term calculations of the public good, unswayed by the passion of the moment.

He defended re-eligibility for election on similar grounds. He also argued that it lends stability to the government, providing a degree of continuity in its administration which is advantageous from the point of view of both domestic and foreign policy.

Having defended the great powers of the executive, Publius asked if it is safe to entrust the people's liberties to a government with such an executive. The people of the United States, given their experience with the British monarch and the royal governors, were naturally suspicious of executive power. Publius assured them that the executive power established by the Constitution is not only effective, but it is also safe. He gave two reasons. The president is chosen every four years by persons (electoral college) "immediately chosen by the people for that purpose," and he is liable to impeachment, trial, and dismissal from office. Moreover, effective controls upon the executive power are provided by the system of checks and balances, in which some of the most important powers (treaty-making and appointive) are shared with the Senate. These measures, agreed Publius, provide assurance that executive power would not be successfully abused.

VII. The Judiciary

Questions were raised by opponents of the Constitution regarding the way in which judges were appointed and their lifetime tenure in office during good behavior.

Publius dismissed the first by pointing out that while judges are appointed by the president, his appointments require the advice and consent of the Senate. This, he suggested, is sufficient to guard against foolish appointments.

Life tenure he defended by first arguing that the judicial power, having access to neither the sword nor the purse, is the least dangerous branch of the government. "The Judiciary is beyond comparison the weakest of the three departments of power . . . ."

Having argued that it is safe to entrust the judicial power to judges with life tenure, he also said it is necessary in order to guarantee their independence. The independence of the judiciary is especially important under a Constitution providing for a government of limited powers. Such a Constitution stipulates that there are certain kinds of laws, for example, ex post facto laws, that the legislature cannot pass. "Limitations of this kind," wrote Publius, "can be preserved in practice no other way than through the medium of courts of justice, whose duty it must be to declare all acts contrary to the manifest terms of the Constitution void. Without this, all the reservations of particular rights or privileges would amount to nothing."

Life tenure, Publius emphasized, is essential if the judges are to possess the independence necessary for performing the "arduous" task of enforcing the limits imposed by the Constitution on the other branches of government. Moreover, the duties of judges require great amounts of knowledge and experience which would be enhanced by lengthy terms of service.

VIII. Bill of Rights

Publius responded to complaints that the Constitution does not contain a bill of rights. After pointing out that some of the state constitutions do not have a bill of rights, he argued that the Constitution contains protection for those rights usually mentioned in bills of rights. These included the guarantee of habeas corpus, the prohibition of ex post facto laws, the guarantee in criminal cases of trial by jury in the state where the crime was committed, protection of persons and their descendants accused of treason, and the prohibition of titles of nobility. The latter he called "the cornerstone of republican government; for so long as they are excluded there can never be serious danger that the government will be any other than that of the people."

Most bills of rights, such as the Magna Carta, were between kings and their people, and are unnecessary in a political system where sovereignty resides in the people and the members of the government are only the people's servants. Moreover, a Constitution which delegates only limited powers to the government does not require a minutely detailed list of the rights maintained by the people.

Finally, Publius suggested that such a list of protected rights is in fact dangerous to the rights of the people. Why, he asked, provide protection against powers not granted? This, he suggested, might afford the pretext for the government to claim power it doesn't have on the ground that if protection is offered against the misuse of a particular power, that power must have been granted.

Publius concluded his defense of the Constitution with the following plea: "A Nation, without a National Government, is, in my view, an awful spectacle. The establishment of a Constitution, in time of profound peace, by the voluntary consent of a whole people, is a prodigy, to the completion of which I look forward with trembling anxiety."

The Anti-Federalists' Position

Unlike the Federalist, the Anti-Federalist position was not set forth in a single group of essays. Many speeches and pamphlets by a large number of opponents to the Constitution contain the various objections that were made.

I. Republican Government

The Anti-Federalists agreed that republican government was the only form of government suited to the United States. They, however, insisted that it was impossible to create and maintain a republican government in a territory as large and containing as many people as the thirteen states. One opponent wrote, "The idea of a . . . republic on an average one thousand miles in length and eight hundred in breadth, and containing six millions of white inhabitants . . . is in itself an absurdity, and contrary to the whole experience of mankind." It was true that a large republic was contrary to the experience of mankind as well as the teachings of writers such as Montesquieu. In arguing for "an extended republic," the Federalists had thought it possible to go beyond this experience and these teachings. The Anti-Federalists, on this as on other issues, were much more impressed with the lessons of the past. In this sense, at least, they were the conservatives in this debate.

Republicanism was the same as free or self-government. Such a government clearly requires the active support of the people. The Anti-Federalists argued that the government provided by the Constitution was too distant from the people to gain this support. The alternative was too horrible to contemplate, and was described by one opponent in the following words: "Nothing would support the government . . . but military coercion." And a writer in *The Independent Gazeteer* of Philadelphia warned, "From the moment we became one great Republic . . . the period is very shortly removed, when we shall sink finally into monarchy, and then into despotism."

Most of the writers on republicanism had assumed that it was possible only when the people had roughly the same economic status, pursued similar economic activities, lived their lives in similar ways, and had the same religious and moral points of view. The Anti-Federalists, who agreed, argued that this clearly was not the case in the United States. A New Englander observed, "The inhabitants of warmer climes are more dissolute in their manners, and less industrious, than in colder countries. . . . It is impossible for a code of laws to suit Georgia and Massachusetts." And a Southerner expressed a similar view when he wrote, "We see plainly that men who come from New England are different from us." He made it clear that he did not wish to be governed by or to govern with these different men.

Finally, many of the Anti-Federalists continued to insist that republican government required citizens who were virtuous. Writing under the name "Centinel," one argued that a government of checks and balances could not attain the common good. In a republic, he insisted, the people are sovereign and for the sovereign people to make good decisions, they must be virtuous. Moreover, they must be relatively equal, and that was less likely in a large nation than a small state.

II. Federalism

The Anti-Federalists were almost unanimous in their opposition to a "national" or "consolidated" government, and that, they insisted, was precisely the kind of government established by the Constitution. *The Federalist,* of course, denied this, arguing that the new federal government was a limited government of delegated powers, with the states retaining sovereignty over local matters. The Anti-Federalists were unimpressed with this argument. They based their opposition on four provisions of the Constitution: (1) the taxing power, (2) the provision for maintaining a standing army, (3) the necessary and proper clause, and (4) the supremacy clause.

Article I, Section 8 of the Constitution gave the federal government the power to levy taxes. This was a power Congress had not possessed under the Articles of Confederation and was viewed by the Framers as one of the major flaws of the Articles. In the minds of the Anti-Federalists, this provision alone made the new government a "consolidated" government. There was no doubt that such a government would become a tyrannical government. To give the government the power of the purse was to make it dangerously independent of the people. Worse, they believed the power to tax was the power to destroy, and conjured up horrible images of the people being bled dry by the overwhelming government. And the taxing power of the federal government may, it was claimed, be used to destroy the state governments. In Pennsylvania, one person warned,". . .the Congress may monopolize every source of revenue, and thus indirectly demolish the state government, for without funds they could not exist."

At least as bad as the taxing power, in the opponents' eyes, was the provision in Article I, Section 8, which authorized Congress to raise and support armies. Not content with the power to bleed the states dry financially, the Framers had given the Congress the ultimate means of oppression. A standing army, according to Centinel, is "that grand engine of oppression." And he appeared to have few doubts about the potential willingness of the federal government to use that engine.

The Anti-Federalists viewed both the "general welfare" and the "necessary and proper" clauses of the Constitution with deep suspicion. Centinel asked of the "general welfare" clause, "Now what can be more comprehensive than these words? . . . . The Congress may construe every purpose . . . to be for the general welfare, and thereby seize upon every object of revenue." As for the "necessary and proper" clause, it seemed to be such a sweeping grant of power, the Anti-Federalists could see no logical limits to the powers of the national government. And the arguments of Madison that the federal government was one of enumerated, delegated powers did nothing to reduce their fears on this point.

Their fears were amply confirmed, in their eyes, by the "supremacy clause." Were there any doubts about the end result of ratification of the Constitution in light of this clause? Luther Martin sought to enlighten the voters of Maryland. "[I]f the system is adopted, it will amount to a total and unconditional surrender to that government, by the citizens of this state, of every right and privilege secured to them by our Constitution . . ."

All of these objections reflected the conviction of most Americans in 1787 that men are seldom content to use less power than they are authorized to use. Human beings' lust for power knows no limits. People who are given power will seek to expand and abuse that power. And particularly in the absence of a bill of rights, these provisions of the Constitution seemed especially dangerous.

III. Separation of Powers

An obscure opponent of the Constitution made the following speech at the Virginia Convention:

"That the legislative, executive, and judicial powers should be separate and distinct, is a political fact so well established, that I presume I shall not be thought arrogant when I affirm that no country ever did, or ever can, long remain free, where they are blended. All the states have been in this sentiment when they formed their state constitutions, and therefore have guarded against the danger; and every schoolboy in politics must be convinced of the propriety of the observation; and yet, by the proposed plan, the legislative and executive powers are closely united. . . ."

An opponent in Pennsylvania observed, "This mixture of legislative and executive. . . highly tends to corruption . . . . 'Where the legislative and executive powers (says Montesquieu) are united in the same person, or in the same body of magistrates, there can be no liberty.' "

The Anti-Federalists did not accept Madison's argument that a blending of separated powers was essential if there is to be an effective system of checks and balances. The sharing of power between the president and the Senate in the appointive and treaty-making power simply made the president and Senate "partners in crime." The blending of power meant, for the Anti-Federalists, a breakdown of checks and balances. In Virginia, Patrick Henry, in top form, said, "There will be no checks, no balances in this government. What can avail your specious, imaginary balances, your rope-dancing, chain-rattling, ridiculous ideal checks and contrivances?"

IV. The Congress

The major criticisms of the Congress were the length of terms, re-eligibility for election, and the claim that it would be unrepresentative and aristocratic.

George Clinton of New York wrote, "The most general objections to the first article, [is] that biennial elections for representatives are a departure from the safe democratic principles of annual ones. . ." And the terms of Senators, as well as their mode of selection would lead inevitably to an aristocracy, he added. This view was widely held. The republican principle required, so the Anti-Federalists thought, the representatives of the people to stand for elections every year, or at the very most two years. This was the major means of keeping them responsive to the people.

In addition to frequent elections, rotation in office was important in order to prevent the emergence of a governing class, that is, an aristocracy. By allowing public officials to be re-elected, the Constitution invited corruption in the government. One, or at most, two years was quite enough for any man to be entrusted with power. For once men have tasted power, they develop aristocratic pretensions and become dangerous.

The Constitution provided one representative for every 30,000 inhabitants. The Anti-Federalists believed that it was not possible to represent adequately that many people. And this notion was a result of their view of representative government. The best form of government was one in which men governed themselves, as in a town meeting. This, however, is not practicable, so representative government is necessary. It is a substitute for self-government. It is government by representatives who are authorized to govern on one's behalf. Hence, these representatives should act to the greatest possible degree as the individual citizen would act were he governing himself. This condition was most likely to be realized through frequent elections, ineligibility for re-election, and small electoral districts.

Moreover, a small number of representatives representing large districts, and in the case of senators, entire states, would probably be drawn from the upper classes since only they would have the means and the inclination to run for election. Melancton Smith of New York claimed that few men of the middle class would choose to run for Congress because the office would be "highly elevated and distinguished," the style of living probably "high." Such circumstances would "render the place of a representative not a desirable one to sensible, substantial men, who have been use to walking in the plain and frugal path of life."

This situation described by Smith--the likelihood that the Congress would not be made up of ordinary men--was precisely the opposite of what most Anti-Federalists thought it should be. George Mason said of the representatives that "they ought to mix with the people, think as they think, feel as they feel,--ought to be perfectly amenable to them, and thoroughly acquainted with their interests and conditions." If they were not, there was the danger, according to the Anti-Federalists, of aristocratic domination and the destruction of representative government.

V. The Presidency

Luther Martin warned that a president elected for a four-year term, eligible for re-election, equipped with power to nominate judicial officers, to fill vacancies during the recess of the Senate, to pardon for the offense of treason, and with the armed forces at his disposal would, in fact, be an "elective King." "A King in substance," he would be able, when he chose, to become a "King in name" as well; and if he chose, he could perpetuate the kingship in his family.

George Clinton dwelt with relish on the dissolute ambition, baseness, and perfidy that would characterize the ten square miles of the Federal District. The president would surround himself with "flatterers," "minions and favorites." He would preside over a court that would be an "asylum of the base, idle, avaricious and ambitious." All of this, he concluded, would certainly lead to "a vile and arbitrary aristocracy or monarchy."

The Anti-Federalists, in the lurid pictures they drew of the probable horrors arising from the presidency, were, of course, reflecting and appealing to the worst fears shared by many Americans as a result of their experience with the British monarchy and the royal governors. While the Federalists were impressed with the need for strong and vigorous executive leadership, the Anti-Federalists were more impressed with its dangers.

VI. The Judiciary

The Anti-Federalists objected to the absence of a guarantee of trial by jury in civil cases and in criminal cases that reach the Supreme Court. They were also convinced that the federal judiciary "would eventually absorb and swallow up the state judiciaries. . ." All of this represented a serious threat to the liberties of the people.

Interestingly, not all Anti-Federalists opposed judicial review. Robert Yates of New York preferred the legislature, being accountable to the people, to be final governmental interpreter of the Constitution. Patrick Henry boasted that the judges in Virginia "opposed the acts of the legislature." He went on, "They had the fortitude to declare that they were the judiciary, and would oppose unconstitutional acts. Are you sure that your federal judiciary will do this? Is that judiciary as well constructed, and as independent of the other branches, as our state judiciary?" In short, for Henry the question was whether the courts as constructed would, not whether they should, exercise the power of judicial review.

VII. The Bill of Rights

The issue of the Bill of Rights was the issue on which the Anti-Federalists were victorious. It was as a result of their efforts that the Bill of Rights was adopted. They were not persuaded by Publius' arguments that a bill of rights was only necessary to protect the people from a king. Nor did they accept the proposition that the Constitution established a limited government of enumerated and delegated powers. Many of those delegations of power, they insisted, were extremely broad and vague. The "general welfare" and "necessary and proper" clauses as well as the war-making powers were merely a few examples. While it might be true that the Constitution prohibited ex post facto laws, why, they asked, did it not provide guarantees for other important liberties and rights? These rights are too important, and the lust for power with which all officeholders are bound to be infected means that the natural rights of the people must receive specific and extraordinary protection if they are not to be violated.

The fears of the Anti-Federalists and their views of the Constitution adopted in Philadelphia were aptly summarized by Centinel who described that Constitution as the "most daring attempt to establish a despotic aristocracy among freemen, that the world has ever seen."

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